



भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY



सं० 35]
No. 35]

नई दिल्ली, शनिवार, सितम्बर 1, 2001/भाद्र 10, 1923
NEW DELHI, SATURDAY, SEPTEMBER 1, 2001/BHADRA 10, 1923

इस भाग में निम्न पृष्ठ संख्या दी जाती है जिससे कि यह धलंग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (II) PART II—Section 3—Sub-Section (II)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएँ
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(other than the Ministry of Defence)

गृह मंत्रालय

नई दिल्ली, 17 अगस्त, 2001

का.आ. 2212— केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में, गृह मंत्रालय के निम्नलिखित कार्यालय में हिन्दी का कार्यसाधक ज्ञान रखने वाले कर्मचारियों की संख्या 80 प्रतिशत से अधिक हो जाने के फलस्वरूप उसे एतद्वारा अधिमूर्चित करती है —
मुख्यालय राष्ट्रीय सुरक्षा गार्ड
नई दिल्ली

[स. 12017/1/99-हिन्दी]
राजेन्द्र सिंह, निदेशक (राजभाषा)

MINISTRY OF HOME AFFAIRS

New Delhi, the 17th August, 2001

S. O. 2212.—In pursuance of sub rule (4) of Rule 10 of the Official Languages (Use for

2550 GI/2001—1

Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the following office of the Ministry of Home Affairs where the percentage of Hindi knowing staff has gone above 80% :

Hqrs National Security Guard
New Delhi

[No. 12017/1/99-Hindi]
RAJENDRA SINGH, Director (O.L.)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय
(कार्मिक और प्रशिक्षण विभाग)
नई दिल्ली, 20 अगस्त, 2001

का.आ. 2213.—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कर्नाटक

राज्य सरकार की अधिसूचना सं. एच डी 253 पीपीआर 99 दिनांक 18-11-1999 द्वारा प्राप्त कर्नाटक राज्य सरकार की सहमति से —

- (1) श्री एम. रामभुपा रेड्डी, उ.श्र.लि.,
क्षेत्रीय भविष्य निधि आयुक्त का कार्यालय, बंगलौर
- (2) श्रीमती टी. वासुकी, अनुभाग पर्यवेक्षक,
सहायक भविष्य निधि आयुक्त का कार्यालय, मैसूर
- (3) श्री ए.वी. बालमुत्तामनियम, सहायक लेखा-अधिकारी
क्षेत्रीय भविष्य निधि आयुक्त का कार्यालय, बंगलौर
- (4) श्री टी. रामकृष्ण, सहायक भविष्य निधि आयुक्त,
इस समय उप-लेखा कार्यालय, पीन्या, बंगलौर के
साथ संबद्ध
- (5) जे. जीवाराज पुत्र जयराज (गैर-सरकारी व्यक्ति)
- (6) श्री एस. जार्ज पुत्र जोभक (गैर-सरकारी व्यक्ति)
- (7) श्री टी. चन्द्रन पुत्र कृष्णन (गैर-सरकारी व्यक्ति)
- (8) श्री के.वी. जॉन पुत्र जार्ज (गैर-सरकारी व्यक्ति)
- (9) श्री सी. प्रकाश पुत्र श्री दोगर्ड (गैर-सरकारी व्यक्ति)
- (10) श्रीमती कस्तुरी तन्ती रामास्वामी (गैर-सरकारी
व्यक्ति)
- (11) श्रीमती के. जगदीश्वरी पत्नी मणि (गैर-सरकारी
व्यक्ति)

(12) श्री सी. सुब्रामण्य पुत्र कृष्णन (गैर-सरकारी व्यक्ति)
के विरुद्ध भारतीय दंड संहिता, 1860 की धारा 120-बी
संपठित धारा 420, 468 और 471 तथा छद्मचर निवारण
अधिनियम, 1988 (1988 का अधिनियम सं. 49) की धारा
13(2) संपठित धारा 13 (1) (डी) के अखीन दंडनीय
अपराधों तथा श्री जयाराम कामथ, प्रबंध भागीदार, मैसूर
के. वी. एस. कामथ एंड सन्स के विरुद्ध उपर्युक्त अपराधों में से
एक अथवा अधिक से संबंधित अथवा संशक्त प्रयत्नों, दुष्टप्रैणों
और षड्यंत्र तथा उसी संबंधवहार के अनुक्रम में किए गए अथवा
उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध और अपराधों
का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना
के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण
कर्नाटक राज्य पर करनी है।

[सं. 228/51/2001-ए.बी.डी.-II(i)]

हरि सिंह, अवसर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 20th August, 2001

S.O. 2213.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Karnataka vide Notification No. HD 253 PCR 99 dated 18-11-1999, hereby extends the powers and

jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Karnataka for investigation of offences punishable under section 120B read with 420, 468 and 471 of the Indian Penal Code, 1860 and section 13(2) read with 13(1) (d) of the Prevention of Corruption Act, 1988 (Act No. 49 of 1988) against :—

- (1) Sri M. Rambhupa Reddy, UDC, O/o the Regional Provident Fund Commissioner, Bangalore.
- (2) Smt. T. Vasuki, Section Supervisor. O/o the Asst. Provident, Fund Commissioner, Mysore.
- (3) Sri A.V. Balasubramaniam, Asst. Accounts Officer, O/o the Regional Provident Fund Commissioner, Bangalore.
- (4) Sri T. Ramakrishna, Assistant P.F. Commissioner, Presently with Sub-Accounts Offices Feenya, Bangalore.
- (5) J. Jivaraj s/o Jairaj (Pvt. person)
- (6) Sri S. George s/o Joseph (Pvt. person).
- (7) Sri T. Chandran s/o Krishnan (Pvt. person).
- (8) Sri K.V. John s/o Georg (Pvt. person).
- (9) Sri C. Prakash s/o C. Dorai (Pvt. person).
- (10) Smt. Kasthuri w/o Ramaswamy (Pvt. person)
- (11) Smt. K. Jagadiswari w/o Mani (Pvt. person)
- (12) Sri C. Subramani s/o Krishnan (Pvt. person)

and attempt, abettments and conspiracy in relation to or in connection with one or more of the offence mentioned above and any other offence and offences committed in the course of the same transaction or arising out of the same facts, against Sri Jayaram Kamath, Managing Partner of M/s. K.V. S. Kamath and Sons.

[No. 228/51/2001-AVD-II(i)]

HARI SINGH, Under Secy.

नई दिल्ली, 20 अगस्त, 2001

का. आ. 2214.—केन्द्रीय सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कर्नाटक राज्य सरकार की अधिसूचना सं. एच डी 261-पी सी आर-99 दिनांक 26-11-1999 द्वारा प्राप्त कर्नाटक राज्य सरकार की सहमति से (1) श्री एम. रामभूपाल रेड्डी, उ.श्र. लि., क्षेत्रीय भविष्य निधि आयुक्त का कार्यालय, बंगलौर (2) श्री आर. शिवप्पा नाईक, अनुभाग पर्यवेक्षक, सहायक भविष्य निधि आयुक्त का कार्यालय, एसएओ, पीन्या बंगलौर (3) श्री दसैहिया, सहायक लेखाधिकारी, सहायक भविष्य निधि आयुक्त का कार्यालय, एसएओ पीन्या, वाई पेड्डाना, बंगलौर एसएओ (सभी निवृत्त/न्याधीन) टी रामकृष्ण, सहायक भविष्य निधि आयुक्त,

बंगलौर के बिहड़ भारतीय दंड संहिता, 1860 की धारा 120-वीं संहिता धारा 419, 420, 468, 471 तथा अष्टाचार निवारण अधिनियम, 1988 (1988 का अधिनियम सं. 49) की धारा 13(2) संहिता धारा 13(1) (डी) के अधीन दंडनीय अपराधों तथा उपर्युक्त अपराधों में से एक अथवा अधिक में संबंधित अथवा संश्लेष प्रयत्नों, दुष्प्रेरणों और पड़यंत्र तथा उसी संबंधवहार के अनुक्रम में किए गए अथवा उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध और अपराधों का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण कर्नाटक राज्य पर करती है।

[सं. 228/51/2001-ए.वी.डी.-II(ii)]

हरि सिंह, अवसर सचिव

New Delhi, the 20th August, 2001

S.O. 2214.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Karnataka vide Notification No. HD 261 PCR 99 dated 26-11-1999, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Karnataka for investigation of offences punishable under section 120B read with 419, 420, 468, 471 of the Indian Penal Code, 1860 and section 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988 (Act No. 49 of 1988) and attempts, abetments and conspiracy in relation to or in connection with one or more of the offence mentioned above and any other offence and offences committed in the course of the same transaction or arising out of the same facts, against (1) Sri M. Rambhupal Reddy, UDC, Office of the Regional Provident Commissioner, Bangalore (2) Sri R. Shivappa Naik, Section Supervisor Office of the APFC, SAO Peenya, Bangalore (3) Sri Dasaiah, Assistant Accounts Officer, Office of the APFC, SAO Peenya Y. Peddanna, Bangalore SAO (All under the suspension) and (4) T. Ramakrishna Assistant P.F. Commissioner Peenya Bangalore.

[No. 228/51/2001-AVD-II(ii)]

HARI SINGH, Under Secy.

नई दिल्ली, 20 अगस्त, 2001

का.प्र. 2215.—केंद्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए कर्नाटक राज्य सरकार की अधिसूचना सं. एच डी-280-गीसीआर-99 दिनांक 22-12-1999 द्वारा प्राप्त कर्नाटक राज्य सरकार की सहमति से श्री जी. निजगुणा, उच्चे. नि., पीनल डैमिजिज मैकगन, क्षेत्रीय भविष्य निधि आयोग का कार्यालय, बंगलौर के बिहड़ भारतीय दंड

संहिता, 1860 की धारा 120-वीं संहिता धारा 420, 468 471 तथा अष्टाचार निवारण अधिनियम, 1988 (1988 का अधिनियम सं. 49) की धारा 13(2) संहिता धारा 13(1) (डी) के अधीन दंडनीय अपराधों तथा उपर्युक्त अपराधों में से एक अथवा अधिक में संबंधित अथवा संश्लेष प्रयत्नों, दुष्प्रेरणों और पड़यंत्र तथा उसी संबंधवहार के अनुक्रम में किए गए अथवा उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध और अपराधों का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण कर्नाटक राज्य पर करती है।

[सं. 228/51/2001-ए.वी.डी.-II(iii)]

हरि सिंह, अवसर सचिव

New Delhi, the 20th, August, 2001

S.O. 2215.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946) the Central Government with the consent of the State Government of Karnataka vide Notification No. HD 280 PCR 99 dated 22-12-1999, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Karnataka for investigation of offences punishable under section 120B read with 420, 468, 471 of the Indian Penal Code, 1860 and section 13(2) read with 13(1)(d) of the Prevention of Corruptions Act, 1988 (Act No. 49 of 1988) and attempts, abetments and conspiracy in relation to or in connection with one or more of the offence mentioned above and any other offence and offences committed in the course of the same transaction or arising out of the same facts, against Sri G. Vijaguna, UDC, Penal Damages Section Office of the Regional Provident Fund Commissioner Bangalore.

[No. 228/51/2001-AVD-II-(iii)]

HARI SINGH, Under Secy.

नई दिल्ली, 20 अगस्त, 2001

का.प्र. 2216.—केंद्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए कर्नाटक राज्य सरकार की अधिसूचना सं. एच डी-254-गीसीआर-99 दिनांक 29-11-1999 द्वारा प्राप्त कर्नाटक राज्य सरकार की सहमति से (1) ए. ई. देवेन्द्र नाथ, पूर्व प्रबन्धक, अध्या बैंक, चम्पूरजपेट गाँव, बंगलौर (2) मैसर्स जे. जे. फैशन स्टूडियो प्राइवेट लिमिटेड, बंगलौर (गैर-सरकारी व्यक्ति) के बिहड़ भारतीय दंड संहिता, 1860 की धारा 120-वीं संहिता धारा 420 तथा अष्टाचार निवारण अधिनियम, 1988 (1988 का अधिनियम सं. 49) की धारा 13(2) संहिता धारा 13(1) (डी) के अधीन दंडनीय अपराधों तथा उपर्युक्त अपराधों में से एक अथवा अधिक

से संबंधित अथवा संशक्त प्रयत्नों, दुष्प्रेरणों और पड़यंत्र तथा उसी संव्यवहार के अनुक्रम में किए गए अथवा उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध और अपराधों का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण कर्नाटक राज्य पर करती है।

[सं. 228/51/2001-ए.बी.डी-II (iv)]

हरि सिंह, अव. सचिव

New Delhi, the 20th August, 2001

S.O. 2216.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946) the Central Government with the consent of the State Government of Karnataka vide Notification No. HD 254 PCR 99 dated 29-11-1999, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Karnataka for investigation of offences punishable under section 120B read with 420 of the Indian Penal Code 1860 and Section 13(2) read with 13(1) (d) of the Prevention of Corruption Act, 1988 (Act No. 49 of 1988) and attempts, abetments and conspiracy in relation to or in connection with one or more of the offence mentioned above and any other offence and offences committed in the course of the same transaction or arising out of the same facts, against (1) Sri A.E. Devendranath, formerly Manager Andhra Bank Chamaraipet Branch, Bangalore (2) M/s J.J. Fashion Studio Private Limited Bangalore (Pvt. person)

[No. 228/51/2001-AVD-II(iv)]

HARI SINGH, Under Secy.

नई दिल्ली, 20 अगस्त, 2001

का. ग्रा. 2217.—केन्द्रीय सरकार एतद्द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए कर्नाटक राज्य सरकार की अधिसूचना सं. एच डी 262 पीसीआर 99 दिनांक 27-11-1999 द्वारा प्राप्त कर्नाटक राज्य सरकार की सहमति से श्री विनायक एस शेट्टी पुत्र श्री सच्चिदानंद शेट्टी, जूनियर क्लर्क (निलंबनाधीन), गोतेगली शाखा, वारदा ग्रामीण बैंक, कुमटा, यू.के. डिस्ट्रिक्ट, कर्नाटक एवं अन्यो के विरुद्ध भारतीय दंड संहिता, 1860 की धारा 120-बी संपठित धारा 420, 409, 477-ए, 471 और 468 तथा भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का अधिनियम सं. 49) की धारा 13 (2) संपठित धारा 13 (1) (सी) के अधीन दंडनीय अपराधों तथा उपर्युक्त अपराधों में से एक अथवा अधिक से संबंधित अथवा संशक्त प्रयत्नों, दुष्प्रेरणों और पड़यंत्र तथा उसी संव्यवहार के अनुक्रम में किए गए अथवा उन्हीं तथ्यों से

उद्भूत किसी अन्य अपराध और अपराधों का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण कर्नाटक राज्य पर करती है।

[सं. 228/51/2001-ए.बी.डी-II (v)]

हरि सिंह, अव. सचिव

New Delhi, the 20th August, 2001

S.O. 2217.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946) the Central Government with the consent of the State Government of Karnataka vide Notification No. HD 262 PCR 99 dated 27-11-1999, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Karnataka for investigation of offences punishable under section 120 B read with 420, 409, 477A, 471 and 468 of the Indian Penal Code, 1860 and section 13(2) read with 13(1) (d) and (d) of the Prevention of Corruption Act, 1988 (Act No. 49 of 1988) and attempts, abetments and conspiracy in relation to or in connection with one or more of the offence mentioned above and any other offence and offences committed in the course of the same transaction or arising out of the same facts, against Sri Vinayak S. Shetty S/o Sri Schidananda Shetty, Junior Clerk (under suspension) Gotegali Branch, Varada Gramina Bank, Kumta, U.K. District Karnataka and others.

[No. 228/51/2001-AVD-II(v)]

HARI SINGH, Under Secy.

नई दिल्ली, 20 अगस्त, 2001

का. ग्रा. 2218.—केन्द्रीय सरकार एतद्द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए कर्नाटक राज्य सरकार की अधिसूचना सं. एच डी-285 पीसीआर-99 दिनांक 27-12-1999 द्वारा प्राप्त कर्नाटक राज्य सरकार की सहमति से (1) श्री ए. आर. दत्ता, आईडीई एम, पूर्व रक्षा सम्पदा अधिकारी कर्नाटक और गोवा सैनिक बंगलौर, (2) श्री बी. ए. दामोदर, रेड्डी, उप-प्रभागीय अधिकारी (ग्रुप-III), रक्षा सम्पदा अधिकारी, कर्नाटक और गोवा सैनिक, बंगलौर (3) मैमर्स इन्फैंट एडवर्टाईजिंग प्रा. लि., मणिपाल सेटर, डिवानमन्म रोड, बंगलौर एवं अन्यो के विरुद्ध भारतीय दंड संहिता, 1860 की धारा 120-बी संपठित धारा 420 तथा भ्रष्टाचार निवारण अधिनियम 1988 (1988 का अधिनियम सं. 49) की धारा 13 (2) संपठित धारा 13 (1) (डी) के अधीन दंडनीय अपराधों तथा उपर्युक्त अपराधों में से एक अथवा अधिक से संबंधित अथवा संशक्त प्रयत्नों, दुष्प्रेरणों और पड़यंत्र तथा उसी संव्यवहार के अनुक्रम में किए गए अथवा उन्हीं तथ्यों से उद्भूत किसी

से उद्भूत अन्य अपराध और अपराधों का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण कर्नाटक राज्य पर करती है।

[सं. 228/51/2001-ए.वी.डी.-II(vi)]

हरि सिंह, अवर सचिव

New Delhi, the 20th August, 2001

S.O. 2218.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Karnataka vide Notification No. HD 285 PCR 99 dated 27-12-1999, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Karnataka for investigation of offences punishable under section 120B read with 420 of the Indian Penal Code, 1860 and section 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988 (Act No. 49 of 1988) and attempts, abetments and conspiracy in relation to or in connection with one or more of the offence mentioned above and any other offence and offences committed in the course of the same transaction or arising out of the same facts, against (1) Sri A.R. Dutta, IDES, formerly Defence Estate Officer, Karnataka and Goa Circle, Bangalore (2) Sri V.A. Damodhara Reddy, Sub-Divisional Officer (Group-III), Defence Estate Office, Karnataka and Goa Circle, Bangalore (3) M/s. Infant Advertising Pvt. Limited, Manipal Centre, Dickenson's Road, Bangalore and others.

[No. 228/51/2001-AVD-II(vi)]

HARI SINGH, Under Secy.

नई दिल्ली, 20 अगस्त, 2001

का.आ. 2219.—केन्द्रीय सरकार एतद्द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कर्नाटक राज्य सरकार की अधिसूचना सं. एचडी 275 पीसीआर 99 दिनांक 18-12-1999 द्वारा प्राप्त कर्नाटक राज्य सरकार की सहमति से (1) श्री अच्युता राव, विकास अधिकारी (ग्रेड-1), नेशनल इश्यूरेस कम्पनी लि. शाखा कार्यालय, चित्रदुर्गा (2) श्री वाई. के. अशोक कुमार, शाखा प्रबंधक, नेशनल इश्यूरेस कम्पनी लि., शाखा कार्यालय, चित्रदुर्गा (3) श्री बी.डी. चौधरी, प्रभागीय प्रबंधक, नेशनल इश्यूरेस कम्पनी लि., प्रभागीय कार्यालय, देवनगरे, बंगलौर (4) मैसर्स श्री जयालक्ष्मी कांठन कार्पोरेशन, चित्रदुर्गा (गैर-सरकारी) के विरुद्ध भारतीय दंड संहिता, 1860 की धारा 120-बी संपठित धारा 420 तथा अष्टाचार निवारण अधिनियम, 1988 (1988 का अधिनियम सं. 49) की धारा 13 (2) संपठित धारा 13 (1) (टी) के अधीन दंडनीय अपराधों तथा उपर्युक्त अपराधों में से एक

अथवा अधिक से संबंधित अथवा संशक्त प्रयत्नों, दुष्प्रेरणों और पडयंत्र तथा उसी संयवहार के अनुक्रम में किए गए अथवा उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध और अपराधों का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण कर्नाटक राज्य पर करती है।

[सं. 228/52/2001-ए.वी.डी.-II(i)]

हरि सिंह, अवर सचिव

New Delhi, the 20th August, 2001

S.O. 2219.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Karnataka vide Notification No. HD 275 PCR 99 dated 18-12-1999, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Karnataka for investigation of offences punishable under section 120B read with 420 of the Indian Penal Code, 1860 and section 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988 (Act No. 49 of 1988) and attempts abetments and conspiracy in relation to or in connection with one or more of the offence mentioned above and any other offence and offences committed in the course of the same transaction or arising out of the same facts, against (1) Sri Achutha Rao, Development Officer (Grade-I), National Insurance Company Ltd., Branch Office, Chitradurga (2) Y.K. Ashok umar, Branch Manager, National Insurance Company Ltd., Branch Office, Chitradurga (3) Sri B.D. Choudhury, Divisional Manager, National Insurance Company Ltd., Divisional Office, Davanagere, Bangalore (4) M/s. Sri Jayalakshmi Cotton, Corporation, Chitradurga (Pvt.).

[No. 228/52/2001-AVD-II(i)]

HARI SINGH, Under Secy.

नई दिल्ली, 20 अगस्त, 2001

का.आ. 2220.—केन्द्रीय सरकार एतद्द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कर्नाटक राज्य सरकार की अधिसूचना सं. एचडी 45 पीसीआर 2000 दिनांक 9-2-2000 द्वारा प्राप्त कर्नाटक राज्य सरकार की सहमति से श्री पी. एल. विश्वेश्वरैया, आयकर अधिकारी, वाई. नं. 1, चिकमंगलूर के विरुद्ध अष्टाचार निवारण अधिनियम, 1988 (1988 का अधिनियम सं. 49) की धारा 7 के अधीन दंडनीय अपराधों तथा उपर्युक्त अपराधों में से एक अथवा अधिक से संबंधित अथवा संशक्त प्रयत्नों, दुष्प्रेरणों और पडयंत्र तथा उसी संयवहार के अनुक्रम में किए गए अथवा उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध और अपराधों का अन्वेषण करने

के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण कर्नाटक राज्य पर करती है।

[सं. 228/52/2001-ए.वी.डी.-II(ii)]

हरि सिंह, अवर सचिव

New Delhi, the 20th August, 2001

S.O. 2220.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Karnataka vide Notification No. HD 45 PCR 2000 dated 9-2-2000, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Karnataka for investigation of offences punishable under section 7 of the Prevention of Corruption Act, 1988 (Act No. 49 of 1988) and attempts, abetments and conspiracy in relation to or in connection with one or more of the offence mentioned above and any other offence and offences committed in the course of the same transaction or arising out of the same facts, against Sri P.L. Vishweswaraiiah, Income Tax Officer, Ward No. 1, Chickmagalur.

[No. 228/52/2001-AVD-II(iii)]

HARI SINGH, Under Secy.

नई दिल्ली, 20 अगस्त, 2001

का.आ. 2221.—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कर्नाटक राज्य सरकार की अधिसूचना सं. एच डी 54 पीसीआर 2000 दिनांक 13-3-2000 द्वारा प्राप्त कर्नाटक राज्य सरकार की सहमति से मिरसीन्यू मार्केट पुलिस स्टेशन में दर्ज अपराध मामला सं 12/2000 के संबंध में भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का अधिनियम सं. 49) की धारा 7 के अधीन दंडनीय अपराधों तथा उपर्युक्त अपराधों से से एक अथवा अधिक से संबंधित अथवा संगत प्रयत्नों, दुष्प्रेरणों और षडयंत्र तथा उसी संव्यवहार के अनुक्रम में किए गए अथवा उन्ही तथ्यों से उद्भूत किसी अन्य अपराध और अपराधों का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण कर्नाटक राज्य पर करती है।

[सं. 228/52/2001-ए.वी.डी.-II(iii)]

हरि सिंह, अवर सचिव

New Delhi, the 20th August, 2001

S.O. 2221.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent

of the State Government of Karnataka vide Notification No. HD 54 PCR 2000 dated 13-3-2000, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Karnataka for investigation of offences punishable under section 7 of the Prevention of Corruption Act, 1988 (Act No. 49 of 1988) registered with Sirsi New Market Police Station, vide Crime No. 12/2000 and attempts, abetments and conspiracy in relation to or in connection with one or more of the offence mentioned above and any other offence and offences committed in course of the same transaction or arising out of the same facts.

[No. 228/52/2001-AVD-II(iii)]

HARI SINGH, Under Secy.

नई दिल्ली, 20 अगस्त, 2001

का.आ. 2222.—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कर्नाटक राज्य सरकार की अधिसूचना सं. एच डी 60 पीसीआर 2000 दिनांक 13-3-2000 द्वारा प्राप्त कर्नाटक राज्य सरकार की सहमति से (1) श्री के.के. रंगाप्पा, उप प्रबंधक (निर्माण) एचए-एल, बंगलौर (2) श्री सी.एन नागभूषण, प्रबंधक (निर्माण) एचएएल, बंगलौर (3) श्री एम. थांगराजन कादेक्टर, नं. 98-ए, निर्धित टेस्ट, बंगलौर के विद्वद् भारतीय दंड संहिता, 1860 की धारा 120-बी सपठित धारा 420 तथा भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का अधिनियम सं. 49) की धारा 13(2) सपठित धारा 13 (1) (डी) के अधीन दंडनीय अपराधों तथा उपर्युक्त अपराधों से से एक अथवा अधिक से संबंधित अथवा संगत प्रयत्नों, दुष्प्रेरणों और षडयंत्र तथा उसी संव्यवहार के अनुक्रम में किए गए अथवा उन्ही तथ्यों से उद्भूत किसी अन्य अपराध और अपराधों का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण कर्नाटक राज्य पर करती है।

[सं. 228/52/2001-ए.वी.डी.-II(iv)]

हरि सिंह, अवर सचिव

New Delhi, the 20th August, 2001

S.O. 2222.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Karnataka vide Notification No. HD 60 PCR 2000 dated 13-3-2000, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Karnataka for investigation of offences punishable under section 120B read with section 420 of the Indian Penal Code, 1860

and section 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988 (Act No. 49 of 1988) and attempts, abetments and conspiracy in relation to or in connection with one or more of the offence mentioned above and any other offence and offences committed in the course of the same transaction or arising out of the same facts, against (1) Sri K.K. Rangappa, Deputy Manager (Works) HAL, Bangalore (2) Sri C.N. Nagabhushana, Manager (Works) HAL, Bangalore and (3) Sri M. Thangarajan Contractor, No. 98A, Nidbin Nest, Bangalore.

[No. 225/52/2001-AVD-II(iv)]

HARI SINGH, Under Secy.

नई दिल्ली, 20 अगस्त, 2001

का.आ. 2223.—केन्द्रीय सरकार एतद्द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कर्नाटक राज्य सरकार की अधिसूचना सं. एच डी 83 पीसीआर 2000 दिनांक 28-3-2000 द्वारा प्राप्त कर्नाटक राज्य सरकार की सहमति में श्री डा. के. नागेश्वर राव, निदेशक, सेंट्रल पॉलिटी ट्रेनिंग इंस्टीट्यूट, बंगलूर एवं अर्थों के विरुद्ध भारतीय दंड संहिता, 1860 की धारा 420 और 477-ए तथा भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का अधिनियम सं. 49) की धारा 13 (2) सपठित धारा 13 (1) (सी) के अर्जित दंडनीय अपराधों तथा उपर्युक्त अपराधों में से एक अथवा अधिक से संबंधित अथवा संगत प्रयत्नों, दुष्प्रेरणों और षड्यंत्र तथा उसी संव्यवहार के अनुक्रम में किए गए अथवा उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध और अपराधों का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण कर्नाटक राज्य पर करती है।

[सं. 228/52/2001-ए.वी.डी. II (v)]

हरि सिंह, अवर सचिव

New Delhi, the 20th August, 2001

S.O. 2223.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Karnataka vide Notification No. HD 83 PCR 99 dated 28-3-2000, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Karnataka for investigation of offences punishable under section 420 and 477A of the Indian Penal Code 1860 and section 13(2) read with 13(1)(c) of the Prevention of Corruption Act, 1988 (Act No. 49 of 1988) and attempts, abetments and conspiracy in relation to or in connection with one or more of the offence mentioned above and any other offence and offences committed in the

course of the same transaction or arising out of the same facts, against, K. Nageswara Rao, Director, Central Poultry Training Institute, Bangalore and others.

[No. 228/52/2001-AVD-II(v)]

HARI SINGH, Under Secy.

नई दिल्ली, 20 अगस्त, 2001

का.आ. 2224.—केन्द्रीय सरकार एतद्द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कर्नाटक राज्य सरकार की अधिसूचना सं. एच डी 79 पीसीआर 2000 दिनांक 21-3-2000 द्वारा प्राप्त कर्नाटक राज्य सरकार की सहमति में (1) श्री बाबू राव, मुख्य प्रबंधक, केनरा बैंक, बुदर शाखा, मंगलूर (2) श्री एम. एस. कामय, प्रबंधक (क्रेडिट) केनरा बैंक, बुदर शाखा, मंगलूर (3) श्री एन. इंदुशेखर, गोदामपाल, केनरा बैंक, बुदर शाखा, मंगलूर और (4) श्री जयाराम कामय, प्रबंध भागीदार, मैसर्स के. वी. एस. कामय एंड सन्स के विरुद्ध भारतीय दंड संहिता, 1860 की धारा 120 बी सपठित धारा 420 तथा भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का अधिनियम सं. 49) की धारा 13 (2) सपठित धारा 13 (1) (डी) के अर्जित दंडनीय अपराधों तथा उपर्युक्त अपराधों में से एक अथवा अधिक से संबंधित अथवा संगत प्रयत्नों, दुष्प्रेरणों और षड्यंत्र तथा उसी संव्यवहार के अनुक्रम में किए गए अथवा उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध और अपराधों का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण कर्नाटक राज्य पर करती है।

[सं. 228/52/2001-ए.वी.डी. II (vi)]

हरि सिंह, अवर सचिव

New Delhi, the 20th August, 2001

S.O. 2224.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Karnataka vide Notification No. HD 79 PCR 2000 dated 21-3-2000, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Karnataka for investigation of offences punishable under section 120B read with 420 of the Indian Penal Code, 1860 and section 13(2) read with 13 (1)(d) of the Prevention of Corruption Act, 1988 (Act No. 49 of 1988) and attempts, abetments and conspiracy in relation to or in connection with one or more of the offence mentioned above and any other offence and offences committed in the course of the same transaction or arising out of the same facts, against (1) Sri Babu Rao, Chief Manager, Canara Bank, Bunder Branch

Mangalore (2) M.S. Kamath, Manager (Credit) Canara Bank, Bunder Branch, Mangalore (3) Sri N. Indushekar Godown Keeper Canara Bank, Bunder Branch, Mangalore and (4) Sri Jayaram Kamath, Managing Partner of M/s K.V.S Kamath and Sons.

[No. 228/52/2001-AVD-II(VI)]

HARI SINGH, Under Secy.

नई दिल्ली, 21 अगस्त, 2001

का.आ. 2225.—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कर्नाटक राज्य सरकार की अधिसूचना सं. एच डी 110 पीसीआर 2001 दिनांक 20-06-2001 द्वारा प्राप्त कर्नाटक राज्य सरकार की अधिसूचना सं. एच डी 110 पीसीआर 2001 दिनांक 20-6-2001 द्वारा प्राप्त कर्नाटक राज्य सरकार की सहमति से दिल्ली विशेष पुलिस स्थापना के अ.अ.यू.ए.सी. बंगलूर में दर्ज मामला आर.सी.-20(ए)/2001-बंगलूर में श्री बासवराजू, लोक सम्पर्क अधिकारी, संयुक्त महानिदेशक, विदेश व्यापार, बंगलूर का कार्यालय एवं किन्हीं अन्य लोक सेवकों के विरुद्ध भ्रष्टाचार निवारण अधिनियम, 1988 की धारा 7 के अधीन दंडनीय अपराधों और उपर्युक्त अपराधों में से एक अथवा अधिक से संबंधित अथवा संगत प्रयत्नों, दृष्टियों और पड़-यत्न तथा उसी संव्यवहार के अनुक्रम में किए गए अथवा उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध और अपराधों के अन्वेषण लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण कर्नाटक राज्य पर करनी है।

[सं. 228/53/2001-ए.पी.डी.-II]

हरि सिंह, अवर सचिव

New Delhi, the 21st August, 2001

S.O. 2225.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Karnataka vide notification No. HD 110/PCR/2001, dated 20-6-2001, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Karnataka for investigation of offences punishable under section 7 of the Prevention of Corruption Act, 1988, and attempts, abetments and conspiracy in relation to or in connection with one or more of the offence mentioned above and any other offence and offences committed in the course of the same transaction or arising out of the same facts against Shri Basavaraju, Public Relation Officer, Office of the Joint Director General of Foreign Trade, Bangalore and any other public servants registered with DSPF/CBI/ACB/Bangalore vide RC 20(A)/2001-BLR.

[No. 228/53/2001-AVD-II]

HARI SINGH, Under Secy.

नई दिल्ली, 21 अगस्त, 2001

का.आ. 2226.—केन्द्रीय सरकार एतद्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 25 की उपधारा (1-ए) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए श्रीमती किरण बाला को किसी राज्य अथवा संघ राज्य क्षेत्र, जिस पर पूर्वांक धारा के उपबंध लागू होते हैं, में विधि द्वारा स्थापित मजिस्ट्रेट न्यायालयों में दिल्ली विशेष पुलिस स्थापना द्वारा स्थित मामलों का संचालन करने के लिए सहायक लोक अभियोजक के रूप में नियुक्त करती है।

[सं. 225/1/2000-ए.पी.डी.-II]

हरि सिंह, अवर सचिव

New Delhi, the 21st August, 2001

S.O. 2226. In exercise of the powers conferred by sub-section (1A) of section 25 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Smt. Kiran Bala as Assistant Public Prosecutor for conduct of cases instituted by Delhi Special Police Establishment in the Courts of Magistrates established by law in any State or Union Territory to which the provisions of the aforesaid section apply.

[No. 225/1/2000-AVD.-II]

HARI SINGH, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

आदेश

नई दिल्ली, 23 जुलाई, 2001

स्टाम्प

का.आ. 2227.—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उप-धारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा यूको बैंक, कलकत्ता को मात्र छिदानवे लाख छयासठ हजार रुपये का समकित स्टाम्प शुल्क अदा करने की अनुमति प्रदान करती है, जो उक्त बैंक द्वारा जारी किए जाने वाले मात्र एक सौ पचास करोड़ पन्नेह लाख रुपये समग्र मूल्य के प्रत्येक पांच-पांच लाख रुपये के असुरक्षित विमोच्य गौणकृत निजी रूप से रखे गए बाण्डों के रूप में वर्णित प्रोमिसरी नोटों के स्वरूप वाले बाण्डों पर स्टाम्प शुल्क के कारण प्रभावी है।

[सं. 29/2001/स्टाम्प-फा.सं. 33/42/2001-बि.क.]

आर. जी. छाबड़ा, अवर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

ORDER

New Delhi, the 23rd July, 2001

STAMPS

S. O. 2227. In exercise of the powers conferred by clause (b) of sub-section (1) of section 9 of

Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby permits UCO Bank, Calcutta to pay consolidated stamp duty of rupees ninety six lakh sixty six thousand only on Bonds in the nature of Promissory Notes described as UNSECURED REDEEMABLE SUBORDINATED PRIVATELY PLACED BONDS of rupees five lakh each aggregating to rupees one hundred fifty crore fifteen lakh only, to be issued by the said Bank.

[N. 29/2001-STAMPS-F. No. 33/42/2001-ST]
R. G. CHHABRA, Under Secy.

(केन्द्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली, 7 अगस्त 2001

(आयकर)

का.आ. 2228.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23ग) के उपखंड (5) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा “मलंकारा आर्थोडोक्स सीरियन चर्च कोट्टायम, केरल” को 1999-2000 से 2001-2002 तक के कर निर्धारण वर्षों के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त खंड के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

(1) कर निर्धारिणी उसकी आय का इस्तेमाल अथवा उसकी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा जिनके लिए उसकी स्थापना की गई है,

(2) कर निर्धारिणी उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जैसे-जवाहिरान, फर्नीचर अथवा किसी अन्य वस्तु आदि के रूप में प्राप्त तथा अनुश्रुत स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा,

(3) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसा कारोबार उक्त कर निर्धारिणी के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएँ नहीं रखी जाती हों,

(4) कर निर्धारिणी आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष फाइल करेगा,

(5) विघटन की स्थिति में अतिरिक्त राशियों और परिसंपत्तियाँ समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएंगी।

[अधिसूचना सं. 232/2001/फा.सं. 197/112/2001-आईटीए-1]

समर भद्र, अवसर सचिव

(CENTRAL BOARD OF DIRECT TAXES)

New Delhi, the 7th August, 2001

(INCOME TAX)

S.O. 2228.—In exercise of the powers conferred by the sub-clause (v) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the “Malankara Orthodox Syrian Church, Kottayam, Kerala” for the purpose of the said sub-clause for the assessment years 1999-2000 to 2001-2002 subject to the following conditions, namely :—

(i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;

(ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment year mentioned above other wise in any one or more of the forms or modes specified in sub-section (5) of Section 11;

(iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

(iv) the assessee will regularly file its return of income before the Income-tax authority in accordance with the provisions of the Income-tax Act, 1961.

(v) that in the event of dissolution, its surplus and the assets will be given to a charitable organisation with similar objectives.

[Notification No. 232/2001 F.No. 197/112/2001-ITA-I]

SAMAR BHADRA, Under Secy.

नई दिल्ली, 7 अगस्त, 2001

(आयकर)

का.आ. 2229.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23ग) के उपखंड (5)

द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "नांदेड सिख गुरुद्वारा सचखण्ड श्री होजर अपचल नगर साहिब, नांदेड" को 1997-98 से 1999-2000 तक के कर निर्धारण वर्षों के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उपखंड के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

- (1) कर निर्धारिती उसकी आय का इस्तेमाल अथवा उसकी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा जिनके लिए इसकी स्थापना की गई है,
- (2) कर निर्धारिती उपर्युक्त कर निर्धारण वर्षों में संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (ज्वर-जवाहिगत, फर्नीचर अथवा किसी अन्य वस्तु आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिक अंशदान में भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा ;
- (3) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार में प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा-पुस्तिकाएं नहीं रखी जाती हों ;
- (4) कर निर्धारिती आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष फाइल करेगा,
- (5) यह कि विघटन की स्थिति में इसकी अनिरुद्ध राशियां और परिसम्पत्तियां समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएंगी ;

[अधिसूचना सं. 238/2001/फा.सं. 197/2000—
आयकर नि.-I]

आई.पी.एस. बिन्द्रा, अवर सचिव

New Delhi, the 7th August, 2001
(INCOME TAX)

S.O.2229.—In exercise of the powers conferred by the sub-clause (v) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Nanded Sikh Gurdwara Sachkhand Shri Hozar Apchal Nagar Sahib, Nanded" for the purpose of the said sub-clause

for the assessment years 1997-98 to 1999-2000 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.
- (iv) the assessee will regularly file its return of income before the Income-tax authority in accordance with the provisions of the Income-tax Act, 1961.
- (v) that in the event of dissolution, its surplus and the assets will be given to a charitable organisation with similar objectives.

[Notification No. 238/2001/F.No.197/63/2000-ITA-1]

I. P. S. BINDRA, Under Secy.

नई दिल्ली, 7 अगस्त, 2001

(आयकर)

का.आ. 2230.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "श्री चितपुर मठ, बंगलौर" को 1999-2000 से 2001-2002 तक के कर निर्धारण वर्षों के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उपखंड के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

- (1) कर निर्धारिती उसकी आय का इस्तेमाल अथवा उसकी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा जिनके लिए इसकी स्थापना की गई है ;
- (2) कर निर्धारिती उपर्युक्त कर निर्धारण वर्षों में संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (ज्वर-जवाहिगत, फर्नीचर अथवा किसी अन्य वस्तु आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिक अंशदान में भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा ;

(3) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जो कि कारोबार में प्राप्त लाभ तथा अभिलाभ हों जब तक कि ऐसा कारोबार उक्त कर निर्धारिता के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा-पुस्तिकाएं नहीं रखी जाती हों ;

(4) कर निर्धारिता आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष फाइल करेगा ;

(5) यह कि विघटन की स्थिति में इसकी अतिरिक्त राशियां और परिसम्पत्तियां समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएंगी ;

[अधिसूचना सं. 237/2001/का.सं. 197/21/2001-
आयकर नि.-I]

आई. पी. एस. बिन्द्रा, अवर सचिव

New Delhi, the 7th August, 2001

(INCOME TAX)

S.O. 2230.—In exercise of the powers conferred by the sub-clause (v) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the “Shri Chitrapur Math, Bangalore” for the purpose of the said sub-clause for the assessment years 1999-2000 to 2001-2002 subject to the following conditions, namely :—

(i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;

(ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;

(iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

(iv) the assessee will regularly file its return of income before the Income-tax authority in accordance with the provisions of the Income-tax Act, 1961.

(v) that in the event of dissolution, its surplus and the assets will be given to a charitable organisation with similar objectives.

[Notification No. 237/2001/F.No. 197/21/2001-ITA-I]
I. P. S. BINDRA, Under Secy.

नई दिल्ली, 14 अगस्त, 2001

(आयकर)

का.आ. 2231 :—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा “मणिनगर श्री स्वामीनारायण गद्दी संस्थान श्री जी मंकाप मूर्ति आद्या आचार्य प्रवर धर्मधुरंधर 1008 श्री मुक्ताजीवन स्वामीबापा स्वर्ण जयंती महोत्सव स्मारक ट्रस्ट मणिनगर, अहमदाबाद” को 1999-2000 से 2001-2002 तक के कर निर्धारण वर्षों के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उपखंड के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

(1) कर निर्धारित उसकी आय का इस्तेमाल अथवा उसकी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्तर्यता उन उद्देश्यों के लिए करेगा जिनके लिए इसकी स्थापना की गई है ;

(2) कर निर्धारित उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी

एक अथवा एक से अधिक ठग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर-जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु आदि के रूप में प्राप्त तथा अनुगृहीत स्वैच्छिक अशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा ;

(3) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जो कि कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा-पुस्तिकाएं नहीं रखी जाती हो ;

(4) कर निर्धारिती आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियंत्रण रूप में आयकर प्राधिकारी के समक्ष फाइल करेगा ;

(5) यह कि बिघटन की स्थिति में इसकी अतिरिक्त राशियां और परिसम्पत्तियां समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएंगी ।

अधिसूचना सं. 244/2001/फ.सं. 197/92/2000-
आयकर नि.-I]]

आई.पी.एस. बिन्द्रा, अवर सचिव

New Delhi, the 14th August, 2001

(INCOME TAX)

S.O. 2231.—In exercise of the powers conferred by the sub-clause (v) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the “Maninagar Shree Swamynarayan Gadi Samsthan Shreeji Sankalp Murthy Adya Acharya Parvar Dharmadhurandhar 1008 Shree Muktajeevan Swamibapa Suvarna Jayanti Mahotsav Smarak Trust, Maninagar, Ahmedabad” for the purpose of the said sub-clause for the assessment years 1999-2000 to 2001-2002 subject to the following conditions, namely : -

(i) the assessee will apply its income, or accumulate for application, wholly and exclusi-

vely to the objects for which it is established;

(ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;

(iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

(iv) the assessee will regularly file its return of income before the Income-tax authority in accordance with the provisions of the Income-tax Act, 1961.

(v) that in the event of dissolution, its surplus and the assets will be given to a charitable organisation with similar objectives.

[Notification No. 244/2001/F.No. 197/92/2000-ITA-I]

J. P. S. BINDRA, Under Secy.

केन्द्रीय उत्पाद शुल्क आयुक्त का कार्यालय

मद्रास, 9 अगस्त, 2001

सं. 09/2001-सीमा शुल्क (एन.टी.)

का.आ. 2232.—सीमा शुल्क अधिनियम, 1962 (1962 का 52) की धारा 9 जो भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, नई दिल्ली के अधिसूचना सं. 33/94-सीमा शुल्क (एन.टी.) दिनांक 1-7-91 के साथ पठित, द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैं एम्बुडारा तमिलनाडु राज्य के

विरुधुनगर जिला, शिवकाशी तालुका के "कीलतिरुतगल" गाँव की सीमा शुल्क अधिनियम, 1962 (1962 का 52) के अधीन शत प्रतिशत निर्गोन्मुख उपक्रम स्थापित करने हेतु भाड़ागार घोषित करना है।

[फाइल: सी.सं. IV/16/96/2001-टी. 2]

एन. शशिधरन, आयुक्त

OFFICE OF THE COMMISSIONER OF
CENTRAL EXCISE

Madurai, the 9th August, 2001

No. 09/2001-Customs (N. T.)

S. O. 2232.—In exercise of the powers conferred on me under section 9 of the Customs Act, 1962 (52 of 1962) read with Notification No. 33/94-Customs (NT) dated 1-7-94 of the Government of India, Ministry of Finance, Department of Revenue, New Delhi, I hereby declare KEELATHIRUTHANGAL Village, SIVAKASI TALUK VIRUDHUNAGAR District in the state of Tamil Nadu to be a warehousing station under the Customs Act, 1962 (52 of 1962) for the purpose of setting up of 100 % Export Oriented Undertakings.

[File C. No. IV/16/96/2001-T. 2]

N. SASIDHARAN, Commissioner

सीमा शुल्क एवं केन्द्रीय उत्पाद शुल्क के आयुक्त का कार्यालय

हैदराबाद II आयुक्तालय

हैदराबाद, 14 अगस्त, 2001

लोक सूचना संख्या-78/2001-सीमा शुल्क (न)

विषय: सीमा शुल्क हैदराबाद अंतर राष्ट्रीय हवाई अड्डे पर नगर कार्गो के लिए स्टेट आफ दी आर्ट सेन्टर के संक्रिया, अनुक्षण एवं प्रबंधन के लिए अभिरक्षक की नियुक्ति के बारे में।

का.आ 2233—सीमा शुल्क अधिनियम, 1962 (1962 का 52) की धारा 45 (1) के अधीन मंत्र में निहित शक्तियों के अनुसरण में व्यापार एवं सामान्य जन की सूचना के लिए

यह अधिसूचित किया जाता है कि मैं आइप मैथ्यु, आयुक्त, सीमा एवं केन्द्रीय उत्पाद शुल्क हैदराबाद-II आयुक्तालय हैदराबाद एनड्वारा नगर कार्गो के लिए स्टेट आफ दी आर्ट सेन्टर जो राजीव गांधी हवाई अड्डा, हैदराबाद क्षेत्र और निम्नलिखित 4 स्थानों से घिरा हुआ है जिसमें सभी आयात तथा निर्यात माल के लिए निम्नलिखित की जाने वाली प्रक्रिया एवं कार्यवाही के लिए मैसन आन्ध्र प्रदेश स्टेट ट्रेडिंग निगम लिमिटेड, 5-10-174, फतेह मेदान रोड, हैदराबाद 500 004 को अभिरक्षक के रूप में नियुक्त करता हूँ।

1. उत्तर : इंडियन एअर लेस कार्गो एवं फाइनर स्टेशन को जाने वाला रास्ता।
2. पूरब : मस्जिद
3. पश्चिम : प्रस्तावित इंटिग्रेटेड टर्मिनल
4. दक्षिण : वाहन/ट्रक पार्किंग

और जब तक ऐसे आयात-निर्यात माल की निकासी घरेलू उपयोग के लिए या निर्यात करने या भाड़ागार में रखने या स्थानान्तरण करने का कार्य सीमा शुल्क के अधिनियम 1962 (1962 का 52) अध्याय-VIII के प्रावधानों के अनुसरण में किया जाता है।

यह लोक सूचना तुरत लागू होती है।

[फाइल सी-सं-एम/26/विविध/59/2001-सी.श. (न)]

आइप मैथ्यु, आयुक्त

OFFICE OF THE COMMISSIONER OF
CUSTOMS AND CENTRAL EXCISE
HYDERABAD-II COMMISSIONERATE

Hyderabad, the 14th August, 2001

Public Notice No. 78/2001-Cus. (T)

Sub : Customs—Appointment of Custodian for the Operation, Maintenance and Management of State-of-the-Art Centre for Perishable Cargo at Hyderabad International Airport-Reg.

S. O. 2233.—It is notified for the information of the Trade and General Public that in pursuance

of the powers vested in me under Section 45 (1) of the Customs Act, 1962 (52 of 1962), I, Iype Mathew, Commissioner of Customs and Central Excise, Hyderabad-II Commissionerate, Hyderabad hereby appoint M/s Andhra Pradesh State Trading Corporation Ltd, 5-10-174, Fateh Maidan Road, Hyderabad-500004 as the Custodian for all import and export goods processed and handled at the State-of-the Art Centre for Perishable Cargo, located within Rajiv Gandhi International Airport, Hyderabad area and surrounded by the following :

North : Approach Road to Indian Airlines Cargo and Fire Station.

East : Mosque.

West : Proposed Integrated Cargo Terminal.

South : Car/Truck Parking.

and until such import/export goods are cleared for home consumption or are exported or are warehoused or are transhipped in accordance with the provisions of Chapter VIII of the Customs Act, 1962 (52 of 1962).

The Public Notice comes into force with immediate effect.

[File C. No. S/26/Misc/59/2001-Cus (T)]

IYPE MATHEW, Commissioner

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 21 अगस्त, 2001

का.आ. 2234.—भविष्य निधि अधिनियम 1925 (1925 का 19) की धारा 8 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त अधिनियम की अनुसूची में निम्नलिखित बैंक का नाम जोड़ती है । नामतः :—

“राष्ट्रीय कृषि और ग्रामीण विकास बैंक अधिनियम 1981 (1981 का 61) के तहत स्थापित राष्ट्रीय कृषि और ग्रामीण विकास बैंक ”

[फा. सं. 7(39)/2001-ए.सी. (I)]

एल. सी. टूरा, अवर सचिव (ए.सी.)

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 21st August, 2001

S. O. 2234.—In exercise of the powers conferred by sub-section (3) of section 8 of the Provident Funds Act, 1925 (19 of 1925), the Central Government hereby adds to the schedule to the said Act, the name of the following bank, namely:—

“The National Bank for Agriculture and Rural Development Bank established under the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981)” .

[F. No. 7(39)/2001-AC (I)]

L. C. TOORA, Under Secy. (AC)

नई दिल्ली, 21 अगस्त, 2001

का. आ. 2235.—भविष्य निधि अधिनियम 1925 (1925 का 19) की धारा 8 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्-द्वारा निदेश देती है कि उक्त अधिनियम के उपबंध राष्ट्रीय कृषि और ग्रामीण विकास बैंक अधिनियम 1981 (1981 का 61) के तहत स्थापित किए गए राष्ट्रीय कृषि और ग्रामीण विकास बैंक के कर्मचारियों के लाभ के लिए स्थापित की गई भविष्य निधि पर लागू होंगे ।

[फा.सं. 7(39)/2001-ए.सी. (II)]

एल. सी. टूरा, अवर सचिव (ए.सी.)

New Delhi, the 21st August, 2001

S. O. 2235.—In exercise of the powers conferred by sub-section (2) of section 8 of the Provident Funds Act, 1925 (19 of 1925), the Central Government hereby directs that the provisions of the said Act shall apply to the Provident Fund established for the benefit of the employees of the National Bank for Agriculture and Rural Development established under the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981)".

[F. No. 7(39)/2001-AC (II)]

L. C. TOORA, Under Secy. (AC)

नई दिल्ली, 22 अगस्त, 2001

का.आ. 2236—राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबंध) स्कीम, 1970 के खण्ड (9) के उपखण्ड (1) और (2)(क) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970 की धारा 9 की उपधारा 3 के खण्ड (च) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात्, एतद्वारा श्री के.डी. खेरा, महासचिव, पंजाब नेशनल बैंक अधिकारी परिमंडल को 22 अगस्त, 2001 से 31 अक्टूबर, 2003 तक, या पंजाब नेशनल बैंक के अधिकारी के रूप में सेवाएं समाप्त होने तक, जो भी पहले हो, पंजाब नेशनल बैंक के बोर्ड में निदेशक के रूप में नामित करती है।

[फा.सं. 9/2/2001-बीओ-1]

रमेश चन्द, अवर सचिव

New Delhi, the 22nd August, 2001

S. O. 2236.—In exercise of the powers conferred by clause (f) of sub-section 3 of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 read with sub-clause (1) and (2) (a) of clause (9) of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, the Central Government, after consultation with the Reserve Bank of India hereby nominates Shri K. D. Khara, General Secretary of the Punjab National Bank Officers' Association as a Director on the Board of Directors of Punjab National Bank with effect from 22nd August, 2001 and upto

31-10-2003 or until he ceases to be an officer of Punjab National Bank, whichever event occurs earlier.

[F. No. 9/2/2001-B. O. 1]

RAMESH CHAND, Under Secy.

नई दिल्ली, 22 अगस्त, 2001

का.आ. 2237—राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबंध) स्कीम, 1970 के खण्ड (9) के उपखण्ड (1) और (2)(क) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970 की धारा 9 की उपधारा 3 के खण्ड (च) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात्, एतद्वारा श्री देबाशीष बनर्जी, महासचिव, यूनाइटेड बैंक अधिकारी परिमंडल को 22 अगस्त, 2001 से तीन वर्ष की अवधि के लिए या यूनाइटेड बैंक के अधिकारी के रूप में उनकी सेवाएं समाप्त होने तक, जो भी पहले हो, यूनाइटेड बैंक के बोर्ड में निदेशक के रूप में नामित करती है।

[फा.सं. 9/9/2001-बीओ-1]

रमेश चन्द, अवर सचिव

New Delhi, the 22nd August, 2001

S. O. 2237.—In exercise of the powers conferred by clause (f) of sub-section 3 of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 read with sub-clause (1) and (2) (a) of clause (9) of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, the Central Government, after consultation with the Reserve Bank of India hereby nominates Shri Debasish Banerji, General Secretary of the United Bank Officers' Association as a Director on the Board of Directors of United Bank of India for a period of three years with effect from 22nd August, 2001 or until he ceases to be an officer of United Bank of India, whichever is earlier.

[F. No. 9/9/2001-B. O. 1]

RAMESH CHAND, Under Secy.

मानव संसाधन विकास मंत्रालय

(माध्यमिक एवं उच्चतर शिक्षा विभाग)

नई दिल्ली, 14 अगस्त, 2001

का.आ. 2238.—आरोविन प्रतिष्ठान अधिनियम, 1988 (1988 का 54) की धारा 11, उप-धारा 1 (ii) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए तथा भारत के राजपत्र, भाग-II, खंड 3 (ii) में प्रकाशित, भारत सरकार, मानव संसाधन विकास मंत्रालय, शिक्षा विभाग की सम-संख्यक अधिसूचना दिनांक 5 अप्रैल, 1999 के आंशिक संशोधन में केन्द्र सरकार एतद्वारा इस अधिसूचना के जारी होने की तारीख से श्री डी. पी. सिंह, पूर्व निदेशक (यूनेस्को यूनिट) के स्थान पर निम्नलिखित व्यक्ति को आरोविन प्रतिष्ठान के शामी बोर्ड के सदस्य के रूप में नामांकित करती है।

श्री च. बालकृष्णन (पंडित),
संयुक्त सचिव (आयोजना),
माध्यमिक एवं उच्चतर शिक्षा विभाग,
मानव संसाधन विकास मंत्रालय,
शास्त्री भवन, नई दिल्ली।

[एफ.सं. 27-42/98-ए.यू.]

बी.एस. दिल्ली, उप-सचिव

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(Department of Secondary & Higher Education)

New Delhi, the 14th August, 2001

S. O. 2238.—In exercise of the powers conferred by Section 11, Sub-Section 1 (ii) of the Auroville Foundation Act, 1988 (54 of 1988), and in partial modification of the Government of India, Ministry of Human Resource Development, Department of Education Notification of even number dated 5th April, 1999, published in the Gazette of India, Part-II, Section 3(ii), the Central Government hereby nominates with effect from the date of issue of this Notification, the following person as member to the Governing Board of the Auroville Foundation in place of Shri D.P. Singh, formerly Director (UNESCO Unit).

Shri C. Balakrishnan, (Ex Officio)

Joint Secretary (Plg.),

Department of Secondary & Higher Education,
Ministry of Human Resource Development
Shastri Bhavan, New Delhi.

[F. No. 27-42/98-UU]

B. S. DHILLON, Dy. Secy.

पर्यटन एवं संस्कृति मंत्रालय

(संस्कृति विभाग)

नई दिल्ली, 16 अगस्त, 2001

का.आ. 2239.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम 4 के अनुसरण में पर्यटन एवं संस्कृति मंत्रालय, संस्कृति विभाग के निम्नलिखित कार्यालय जिसके 80 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

रामपुर राजा लाहश्रेणी, रामपुर (उत्तर प्रदेश)

[संख्या 1-2/95-हिन्दी]

वाई.एस. रावत, उप निदेशक (राजभाषा)

MINISTRY OF TOURISM & CULTURE

(DEPARTMENT OF CULTURE)

New Delhi, the 16th August, 2001

S.O.2239.—In pursuance of Sub-Rule 4 of Rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Govt. hereby notifies the following office under the Ministry of Tourism & Culture, Deptt. of Culture where more than 80% staff have acquired a working knowledge of Hindi.

Rampur Raza Library, Rampur (Uttar Pradesh)

[F. No. 1-2/95-Hindi]

Y. S. RAWAT, Dy. Director (OL)

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 23 अगस्त, 2001

का. आ. 2240.— केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 175 तारीख 24 जनवरी, 2001 द्वारा इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा बरौनी से पटना तक पेट्रोलियम उत्पादों के परिवहन के लिए बिहार राज्य में विद्यमान बरौनी-कानपुर उत्पाद पाइपलाइन के समानान्तर उत्पाद पाइपलाइन बिछाने के प्रयोजनार्थ उक्त अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार के अर्जन के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को तारीख 12 फरवरी, 2001 को उपलब्ध करा दी गई थी;

और उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी ने केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार का उक्त रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाना चाहिए,

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार अर्जित करने की घोषणा करती है;

यह और कि केन्द्रीय सरकार, उक्त धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाय सभी विल्लंगमों से मुक्त, इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुरूपी

अंचल - पंडारक	जिला - पटना	राज्य - बिहार		
गाँव का नाम	खसरा नं०	क्षेत्र		
		हेक्टेयर	आर	वर्गमीटर
1	2	3	4	5
लछमीपुर	559	0	55	53
	556	0	5	1
	555	0	0	40
	552	0	13	35
	551	0	4	9
	550	0	27	65
	549	0	10	74
	548	0	3	16
	547	0	3	27
	544	0	3	10
पुनारक	1416	0	4	63
	1415	0	3	10
	1414	0	3	5
	1412	0	5	61
	1409	0	2	67
	1407	0	2	73
	1406	0	3	98
	1405	0	0	69
	1404	0	1	58
	1403	0	2	21
	1398	0	4	14
	1396	0	3	21
	1393	0	2	18
	1390	0	2	56
	1388	0	2	89
	1386	0	8	7
	1383	0	1	91
	1382	0	3	10
	1381	0	3	54
	1380	0	6	0
	1379	0	4	9
	1374	0	2	2
	1375	0	0	48
	1373	0	1	94
	1372	0	1	1
	1370	0	1	36
	1368	0	1	91
	1364	0	2	2
	1363	0	1	16

1	2	3	4	5
	1362	0	1	21
	1361	0	1	63
	1360	0	3	97
	1359	0	3	27
	1358	0	3	27
	1357	0	6	0
	1356	0	1	36
	7698	0	2	84
	1355	0	9	14
	7695	0	2	73
	1351	0	4	90
	1350	0	5	45
	1349	0	6	0
	1346	0	4	14
	1345	0	3	38
	1343	0	5	43
	1342	0	3	65
	1344	0	1	80
	1341	0	5	85
	1340	0	6	2
	1339	0	1	69
	1338	0	1	80
	1337	0	6	57
	1335	0	15	60
	1334	0	22	99
	1331	0	28	85
	1325	0	3	27
	1324	0	1	63
	1323	0	11	94
	1322	0	0	95
	3468	0	3	14
	3467	0	3	57
	3466	0	3	91
	3465	0	4	55
	3464	0	15	61
	3470	0	0	40
	3471	0	0	91
	3472	0	1	92
	3460	0	3	10
	3461	0	9	46
	3459	0	4	85
	3458	0	7	35
	3457	0	0	74
	3454	0	9	3
	3453	0	5	18
	3452	0	4	63
	3449	0	6	27
	3447	0	6	65

1	2	3	4	5
	3437	0	17	41
	3436	0	4	58
	3180	0	1	63
	3186	0	12	81
	3187	0	7	48
	3188	0	15	22
	3189	0	1	11
	3190	0	2	79
	3191	0	2	77
	3192	0	3	43
	3193	0	3	27
	3194	0	5	83
	3197	0	7	22
	3201	0	1	91
	3203	0	11	22
	3211	0	7	0
	3212	0	0	40
	3225	0	3	56
	3224	0	3	27
	3223	0	3	27
	3230	0	4	52
	3231	0	5	2
	3232	0	7	41
	3222	0	3	14
	3234	0	24	82
	3235	0	2	44
	3315	0	11	88
	3316	0	10	57
	3317	0	10	67
	7610	0	1	20
	7611	0	12	77
	7612	0	5	91
	7613	0	14	20
	7606	0	9	28
	7605	0	8	76
रेली	877	0	6	26
	878	0	7	0
	879	0	3	68
	880	0	2	78
	881	0	5	28
	882	0	6	27
	899	0	3	54
	900	0	0	40
	898	0	3	10
	902	0	7	66
	906	0	3	5
	907	0	7	74

1	2	3	4	5
	918	0	0	40
	910	0	0	40
	911	0	2	51
	917	0	2	43
	912	0	1	76
	913	0	3	33
	939	0	15	87
	935	0	0	40
	938	0	0	40
	937	0	7	37
	936	0	3	24
	953	0	1	50
	954	0	4	82
	955	0	8	50
	960	0	0	66
	959	0	3	0
	958	0	3	53
	995	0	2	21
	994	0	1	1
	993	0	0	46
	966	0	1	66
	967	0	11	44
	988	0	0	40
	969	0	6	81
	970	0	0	40
	979	0	3	0
	978	0	2	83
	981	0	2	73
ढीयर	1725	0	0	40
	1724	0	8	22
	1721	0	5	76
	1720	0	7	20
	1719	0	5	89
	1718	0	2	92
	1670	0	2	73
	1671	0	7	8
	1752	0	4	62
	1715	0	0	40
	1678	0	7	41
	1679	0	4	6
	1683	0	3	81
	1685	0	3	79
	1686	0	44	19
सहनौरा	928	0	5	87
	929	0	2	78
	930	0	8	27

1	2	3	4	5
	931	0	0	94
	932	0	0	40
	933	0	7	74
	921	0	0	40
	922	0	0	40
	923	0	3	0
	924	0	2	73
	917	0	5	18
	915	0	3	38
	916	0	1	85
	913	0	2	3
	914	0	2	73
	912	0	3	10
	911	0	0	65
	910	0	1	22
	909	0	8	86
	905	0	4	3
	904	0	10	16
	937	0	3	0
	938	0	6	81
	939	0	5	20
	940	0	3	29
	941	0	12	43
ममरखाबाद	9	0	8	28
	10	0	5	7
	11	0	6	84
	12	0	6	37
	14	0	7	93
	19	0	6	2
	20	0	1	74
	25	0	3	81
	26	0	3	37
	30	0	7	66
	31	0	7	83
	37	0	6	46
	38	0	0	60
	39	0	7	77
	47	0	3	93
	48	0	2	96
	49	0	12	50
	57	0	1	48
	58	0	3	8
	59	0	1	61
	60	0	1	78
	61	0	1	33
	64	0	3	68
	65	0	0	83

1	2	3	4	5
	66	0	1	55
	89	0	1	85
	90	0	1	59
	91	0	10	97
	92	0	8	27
	93	0	0	92
	94	0	16	27
	95	0	4	9
	98	0	10	12
	99	0	5	45
	100	0	6	5
	102	0	4	36
	103	0	2	18
	104	0	3	4
	105	0	1	4
	107	0	4	90
	108	0	10	95
	109	0	4	90
	111	0	4	63
	112	0	4	36
	114	0	3	27
	115	0	2	67
	155	0	7	90
	176	0	2	2
	177	0	2	18
	178	0	1	91
	179	0	3	27
	180	0	0	40
	181	0	10	67
	184	0	11	88
	192	0	9	14
	203	0	1	9
	204	0	1	20
	205	0	2	4
	206	0	3	54
	207	0	10	2
	226	0	1	48
	227	0	8	48
	229	0	2	72
	230	0	1	90
	231	0	1	74
	232	0	1	9
	233	0	1	9
	234	0	3	47
	235	0	4	28
	236	0	0	40
	237	0	0	89
	301	0	0	40

1	2	3	4	5
	302	0	4	52
	303	0	3	0
	304	0	5	74
	305	0	5	18
	306	0	12	15
	312	0	6	84
	313	0	5	31
	314	0	2	92
	315	0	0	40
	316	0	0	40
	334	0	23	20
	335	0	0	93
	336	0	29	2
	337	0	4	3
मोजाहिदपुर	104	0	0	40
	9	0	7	72
	10	0	8	85
	11	0	0	40
	14	0	5	98
	15	0	1	96
	13	0	4	27
	20	0	1	96
	21	0	6	63
	22	0	4	25
	23	0	2	17
	24	0	2	59
	25	0	1	42
	26	0	2	17
	42	0	1	39
बरिआरपुर	195	0	7	26
	196	0	5	47
	197	0	4	20
नेआमतपुर	365	0	2	56
	362	0	7	57
	361	0	1	22
	377	0	8	12

[फ़. सं. 31015/55/2000-ओ.आर-1]

एस. चन्द्रशेखर, अवर सचिव

Ministry of Petroleum and Natural Gas

New Delhi, the 23th August, 2001

S. O. 2240.— Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas No. S.O. 175 dated the 24th January, 2001, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in land specified in the Schedule appended to that notification for the purpose of laying a parallel product pipeline for the transportation of petroleum products from Barauni to Patna along the existing Barauni – Kanpur product pipeline in the State of Bihar by the Indian Oil Corporation Limited;

And whereas, the copies of the said gazette notification were made available to the public on 12th February, 2001;

And whereas, the competent authority in pursuance of sub-section (1) of section 6 of the said Act, has submitted his report to the Central Government;

And whereas, the Central Government, after considering the said report, is satisfied that the right of user in land specified in the Schedule appended to this notification should be acquired;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in land specified in the Schedule appended to this notification are hereby acquired;

And further, in exercise of the powers conferred by sub-section (4) of the said section, the Central Government hereby directs that the right of user in the said land shall instead of vesting in the Central Government, vest from the date of publication of this declaration, in the Indian Oil Corporation Limited free from all encumbrances.

Schedule

Anchal - PUNDARAKH		District – PATNA		State - BIHAR	
Name of Village	Khasra No./ Plot. No	Area			
		Hectare	Are	Centiare	
1	2	3	4	5	
LACHHMIPUR	559	0	55	53	
	556	0	5	1	
	555	0	0	40	
	552	0	13	35	
	551	0	4	9	
	550	0	27	65	
	549	0	10	74	
	548	0	3	16	
	547	0	3	27	
	544	0	3	10	
PUNARAKH	1416	0	4	63	
	1415	0	3	10	
	1414	0	3	5	
	1412	0	5	61	
	1409	0	2	67	
	1407	0	2	73	
	1406	0	3	98	
	1405	0	0	69	
	1404	0	1	58	
	1403	0	2	21	
	1398	0	4	14	
	1396	0	3	21	
	1393	0	2	18	
	1390	0	2	56	
	1388	0	2	89	
	1386	0	8	7	
	1383	0	1	91	
	1382	0	3	10	
	1381	0	3	54	
	1380	0	6	0	
	1379	0	4	9	
	1374	0	2	2	
	1375	0	0	48	
	1373	0	1	94	
	1372	0	1	1	
	1370	0	1	36	
	1368	0	1	91	
	1364	0	2	2	
	1363	0	1	16	

1	2	3	4	5
	1362	0	1	21
	1361	0	1	63
	1360	0	3	97
	1359	0	3	27
	1358	0	3	27
	1357	0	6	0
	1356	0	1	36
	7698	0	2	84
	1355	0	9	14
	7695	0	2	73
	1351	0	4	90
	1350	0	5	45
	1349	0	6	0
	1346	0	4	14
	1345	0	3	38
	1343	0	5	43
	1342	0	3	65
	1344	0	1	80
	1341	0	5	85
	1340	0	6	2
	1339	0	1	69
	1338	0	1	80
	1337	0	6	57
	1335	0	15	60
	1334	0	22	99
	1331	0	28	85
	1325	0	3	27
	1324	0	1	63
	1323	0	11	94
	1322	0	0	95
	3468	0	3	14
	3467	0	3	57
	3466	0	3	91
	3465	0	4	55
	3464	0	15	61
	3470	0	0	40
	3471	0	0	91
	3472	0	1	92
	3460	0	3	10
	3461	0	9	46
	3459	0	4	85
	3458	0	7	35
	3457	0	0	74
	3454	0	9	3
	3453	0	5	18
	3452	0	4	63
	3449	0	6	27
	3447	0	6	65

1	2	3	4	5
	3437	0	17	41
	3436	0	4	58
	3180	0	1	63
	3186	0	12	81
	3187	0	7	48
	3188	0	15	22
	3189	0	1	11
	3190	0	2	79
	3191	0	2	77
	3192	0	3	43
	3193	0	3	27
	3194	0	5	83
	3197	0	7	22
	3201	0	1	91
	3203	0	11	22
	3211	0	7	0
	3212	0	0	40
	3225	0	3	56
	3224	0	3	27
	3223	0	3	27
	3230	0	4	52
	3231	0	5	2
	3232	0	7	41
	3222	0	3	14
	3234	0	24	82
	3235	0	2	44
	3315	0	11	88
	3316	0	10	57
	3317	0	10	67
	7610	0	1	20
	7611	0	12	77
	7612	0	5	91
	7613	0	14	20
	7606	0	9	28
	7605	0	8	76
RAIL	877	0	6	26
	878	0	7	0
	879	0	3	68
	880	0	2	78
	881	0	5	28
	882	0	6	27
	899	0	3	54
	900	0	0	40
	898	0	3	10
	902	0	7	66
	906	0	3	5
	907	0	7	74

1	2	3	4	5
	918	0	0	40
	910	0	0	40
	911	0	2	51
	917	0	2	43
	912	0	1	76
	913	0	3	33
	939	0	15	87
	935	0	0	40
	938	0	0	40
	937	0	7	37
	936	0	3	24
	953	0	1	50
	954	0	4	82
	955	0	8	50
	960	0	0	66
	959	0	3	0
	958	0	3	53
	995	0	2	21
	994	0	1	1
	993	0	0	46
	966	0	1	66
	967	0	11	44
	988	0	0	40
	969	0	6	81
	970	0	0	40
	979	0	3	0
	978	0	2	83
	981	0	2	73
				•
DHIBAR	1725	0	0	40
	1724	0	8	22
	1721	0	5	76
	1720	0	7	20
	1719	0	5	89
	1718	0	2	92
	1670	0	2	73
	1671	0	7	8
	1752	0	4	62
	1715	0	0	40
	1678	0	7	41
	1679	0	4	6
	1683	0	3	81
	1685	0	3	79
	1686	0	44	19
SAHNAURA	928	0	5	87
	929	0	2	78
	930	0	8	27

1	2	3	4	5
	931	0	0	94
	932	0	0	40
	933	0	7	74
	921	0	0	40
	922	0	0	40
	923	0	3	0
	924	0	2	73
	917	0	5	18
	915	0	3	38
	916	0	1	85
	913	0	2	3
	914	0	2	73
	912	0	3	10
	911	0	0	65
	910	0	1	22
	909	0	8	86
	905	0	4	3
	904	0	10	16
	937	0	3	0
	938	0	6	81
	939	0	5	20
	940	0	3	29
	941	0	12	43
MAMRAKHABAD	9	0	8	28
	10	0	5	7
	11	0	6	84
	12	0	6	37
	14	0	7	93
	19	0	6	2
	20	0	1	74
	25	0	3	81
	26	0	3	37
	30	0	7	66
	31	0	7	83
	37	0	6	46
	38	0	0	60
	39	0	7	77
	47	0	3	93
	48	0	2	96
	49	0	12	50
	57	0	1	48
	58	0	3	8
	59	0	1	61
	60	0	1	78
	61	0	1	33
	64	0	3	68
	65	0	0	83

1	2	3	4	5
	66	0	1	55
	89	0	1	85
	90	0	1	59
	91	0	10	97
	92	0	8	27
	93	0	0	92
	94	0	16	27
	95	0	4	9
	98	0	10	12
	99	0	5	45
	100	0	6	5
	102	0	4	36
	103	0	2	18
	104	0	3	4
	105	0	1	4
	107	0	4	90
	108	0	10	95
	109	0	4	90
	111	0	4	63
	112	0	4	36
	114	0	3	27
	115	0	2	67
	155	0	7	90
	176	0	2	2
	177	0	2	18
	178	0	1	91
	179	0	3	27
	180	0	0	40
	181	0	10	67
	184	0	11	88
	192	0	9	14
	203	0	1	9
	204	0	1	20
	205	0	2	4
	206	0	3	54
	207	0	10	2
	226	0	1	48
	227	0	8	48
	229	0	2	72
	230	0	1	90
	231	0	1	74
	232	0	1	9
	233	0	1	9
	234	0	3	47
	235	0	4	28
	236	0	0	40
	237	0	0	89
	301	0	0	40

1	2	3	4	5
	302	0	4	52
	303	0	3	0
	304	0	5	74
	305	0	5	18
	306	0	12	15
	312	0	6	84
	313	0	5	31
	314	0	2	92
	315	0	0	40
	316	0	0	40
	334	0	23	20
	335	0	0	93
	336	0	29	2
	337	0	4	3
MOJAHIDPUR	104	0	0	40
	9	0	7	72
	10	0	8	85
	11	0	0	40
	14	0	5	98
	15	0	1	96
	13	0	4	27
	20	0	1	96
	21	0	6	63
	22	0	4	25
	23	0	2	17
	24	0	2	59
	25	0	1	42
	26	0	2	17
	42	0	1	39
BARIARPUR	195	0	7	26
	196	0	5	47
	197	0	4	20
NEAMATPUR	365	0	2	56
	362	0	7	57
	361	0	1	22
	377	0	8	12

[No. R-31015/55/2000 OR-I]
S CHANDRASEKHAR, Under Secy.

नई दिल्ली, 23 अगस्त, 2001

का. आ. 2241.- केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 174 तारीख 19 जनवरी, 2001 द्वारा इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा बिहार राज्य में विद्यमान बरौनी-कानपुर उत्पाद पाइपलाइन के समानान्तर बरौनी से पटना तक पेट्रोलियम उत्पादों के परिवहन के लिए पाइपलाइन बिछाने के प्रयोजनार्थ उक्त अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार के अर्जन के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को तारीख 12 फरवरी, 2001 को उपलब्ध करा दी गई थी;

और उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी ने केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार का उक्त रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाना चाहिए;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग का अधिकार अर्जित करने की घोषणा करती है;

यह और कि केन्द्रीय सरकार, उक्त धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाय सभी विल्लंगमों से मुक्त, इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची				
अंचल - तेघरा	जिला - बेगूसराय		राज्य - बिहार	
गाँव का नाम	खसरा नं०	हेक्टेयर	क्षेत्र	वर्गमीटर
1	2	3	4	5
जमालपुर	210	0	0	65
	199	0	9	30
	202	0	5	75
	201	0	0	90
	200	0	0	81
	192	0	9	85
	156	0	9	4
	157	0	5	34
	138	0	5	9
	135	0	1	68
	134	0	3	74
	110	0	0	40
	111	0	6	13
	106	0	0	40
	132	0	1	77
	133	0	1	41
	112	0	0	40
	113	0	1	39
	114	0	1	95
भभीर	519	0	2	92
	520	0	11	50
	521	0	3	72
	522	0	3	25
	523	0	0	56
	534	0	3	6
	533	0	3	83
	532	0	4	87
	531	0	6	85
	530	0	8	5
	555	0	4	38
	370	0	15	61
	366	0	58	17
	561	0	2	18
	562	0	2	78
	365	0	8	73
	364	0	10	13
	362	0	5	98
	361	0	0	76
	360	0	0	90
	359	0	9	85
	358	0	2	8
	302	0	1	11
	301	0	7	65
	300	0	6	40
	299	0	6	84
	298	0	2	8
	297	0	2	31
सबौरा	15	0	3	51
	14	0	7	42
	18	0	0	74
	13	0	6	50
	12	0	1	62

[फ़. सं. 31015/54/2000-ओ.आर.-I]

एस. चन्द्रशेखर, अवर सचिव

New Delhi, the 23th August, 2001

S. O. 2241.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 174 dated the 19th January, 2001, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in land specified in the Schedule appended to that notification for the purpose of laying a parallel product pipeline for the transportation of petroleum products from Barauni to Patna along the existing Barauni – Kanpur Product Pipeline in the State of Bihar by the Indian Oil Corporation Limited;

And whereas, the copies of the said gazette notification were made available to the public on 12th February, 2001;

And whereas, the competent authority in pursuance of sub-section (1) of section 6 of the said Act, has submitted his report to the Central Government;

And whereas, the Central Government, after considering the said report, is satisfied that the right of user in land specified in the Schedule appended to this notification should be acquired;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification are hereby acquired;

And further, in exercise of the powers conferred by sub-section (4) of the said section, the Central Government hereby directs that the right of user in the said land shall instead of vesting in the Central Government, vest from the date of publication of this declaration, in the Indian Oil Corporation Limited free from all encumbrances.

Schedule

Anchal - TEGHARA		District - BEGUSARAI		State - BIHAR	
Name of Village	Khasra No./ Plot. No	Area			
		Hectare	Are	Centiare	
1	2	3	4	5	
JAMALPUR	210	0	0	65	
	199	0	9	30	
	202	0	5	75	
	201	0	0	90	
	200	0	0	81	
	192	0	9	85	
	156	0	9	4	
	157	0	5	34	
	136	0	5	9	
	135	0	1	68	
	134	0	3	74	
	110	0	0	40	
	111	0	6	13	
	106	0	0	40	
	132	0	1	77	
	133	0	1	41	
	112	0	0	40	
	113	0	1	39	
	114	0	1	95	
BHABHAUR	519	0	2	92	
	520	0	11	50	
	521	0	3	72	
	522	0	3	25	
	523	0	0	56	
	534	0	3	6	
	533	0	3	83	
	532	0	4	87	
	531	0	6	85	
	530	0	8	5	
	555	0	4	38	
	370	0	15	61	
	366	0	58	17	
	561	0	2	18	
	562	0	2	78	
	365	0	8	73	
	364	0	10	13	
	362	0	5	98	
	361	0	0	76	
	360	0	0	90	
SABORA	359	0	9	85	
	358	0	2	8	
	302	0	1	11	
	301	0	7	65	
	300	0	6	40	
	299	0	6	84	
	298	0	2	8	
	297	0	2	31	
	15	0	3	51	
	14	0	7	42	
	18	0	0	74	
	13	0	6	50	
	12	0	1	62	

[No. R-31015/54/2000 OR-I]

S. CHANDRASEKHAR, Under Secy.

श्री मन्त्रालय

Appearances :

नई दिल्ली, 24 जुलाई, 2001

Shri M. K. Mahapatra & Shri M. R. Kar.—For the First Party-Management.

None.—For the Second Party-Workman.

का.मा. 2242.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रिय सरकार नुसाही क्रोमाइट माइन्स के प्रबंधन के संबंध निजीकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण भुवनेश्वर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-7-2001 को प्राप्त हुआ था।

[सं. एल-29012/115/98-आई.आर. (एम)]

बी. एम. डेविड, अवर सचिव

MINISTRY OF LABOUR

New Delhi, the 24th July, 2001

S.O. 2242.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Nuasahi Chromite Mines and their workman, which was received by the Central Government on 20-7-2001.

[No. L-29012/115/98-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

PRESENT :

Shri S. K. Dhal, OSJS, (Sr. Branch) Presiding Officer C.G.I.T.-Cum-Labour Court, Bhubaneswar.

Tr. INDUSTRIAL DISPUTE CASE NO. 212/2001

Dated, Bhubaneswar, the 6th July, 2001

BETWEEN

The Management of Nuasahi, Chromite Mines of M/s. IMFA, Ltd., Rasulgarh, Bhubaneswar. ... First Party-Management.

AND

Their Workman Smt. Bentakar, At. Nuarugudi, P. O. Padiharipalli. Via. Dhanurjaypur, Keonjhar. ... Second Party-Workman.

2550 GI/2001—6

AWARD

The Government of India in the Ministry of Labour in exercise of powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), have referred the following dispute for adjudication vide their Order No. L-29012/115/98/IR(M), dated 13-1-1999 :—

“Whether the action of the Management of Nuasahi Chromite Mines of IMFA Ltd. in terminating the services of Smt. Bentakar, mazdoor without any charge and violating the principles of natural justice and provisions of Industrial Disputes Act, 1947 is justified and legal? If not, to what relief the workman is entitled to” “Whether the demand of Smt. Bentakar of Nuasahi Chromite Mines of IMFA Ltd. for reinstatement with full back wages is justified? If so, to what relief the workman is entitled to”?

2. While making reference intimation was sent to the workman (hereinafter called as the 2nd Party) and to the Management (hereinafter called as the 1st Party) directing them to file their claim statement, written statement and relevant documents before the Tribunal. On receipt of the reference the Tribunal also issued notice to both the parties. In spite of such notice the 2nd Party-workman did not take any step. No claim statement was filed by the workman in spite of opportunity given to her. The 1st Party-Management has made their appearance.

3. It is submitted on behalf of the Management that the 2nd Party-workman had no dispute at all and the action taken by the Management was in accordance with the rules and provisions of Industrial Dispute Act and no illegality was committed by the Management.

4. The 2nd Party-workman has not responded to the notice issued from the Ministry and from the Tribunal. She has also not filed any claim statement in spite of notice

issued to her. In absence of claim statement and other materials it can not be said that there exists an Industrial Dispute between the parties. The absence of 2nd Party-workman suggests that she has got no cause of action.

5. From the above facts it can be inferred that at present the 2nd Party-workman has got no dispute with the 1st Party-Management.

6. Hence, no dispute award is passed.

7. The reference is answered accordingly.

S. K. DHAL, Presiding Officer

नई दिल्ली, 01 अगस्त, 2001

का.आ. 2243.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अम न्यायालय चेन्नई के रजिस्ट्रार को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-7-2001 को प्राप्त हुआ था।

[का.सं. एल-12012/281/93-आई आर (बी-II)]
सी. गंगाधरन, अवर सचिव

New Delhi, the 1st August, 2001

S.O. 2243.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Labour Court, Chennai as shown in the enclosure in the Industrial Dispute between the employers in relation to the management of Indian Bank and their workman which was received by the Central Government on 31-7-2001,

[F. No. L-12012/281/93-IR(B-II)]
C. GANGADHARAN, Under Secy

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-LABOUR COURT, CHENNAI

Wednesday, the 27th June, 2001

PRESENT

1. Karthikeyan, Presiding Officer

Industrial Dispute No. 378/2001

(Tamil Nadu State Industrial Tribunal I.D. No. 142/94)

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act 1947 (14 of 1947), between the Workman Sri V. S. Srinivasa Narayanan and the Management of Indian Bank, Madras.)

BETWEEN

The General Secretary, I Party/Claimant
Indian Bank Employees Association,
Chennai

AND

The General Manager, II Party/Management
Indian Bank,
Chennai.

APPEARANCE :

For the Claimant : Sri K. Chandru and
D. Hariparanthaman,
Advocates

For the Management : M/s. Aiyar & Dolia
Advocates

The Government of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned Industrial Dispute for adjudication vide Order No. L-12012/281/93-IR (B-II) dated 25-04-1994.

This reference has been made earlier to the Tamil Nadu Industrial Tribunal, where it was taken on file as I.D. No. 142/94. When the matter was pending enquiry in that Tribunal, the Government of India, Ministry of Labour was pleased to order transfer of this case from that Tribunal to this Tribunal for adjudication. On receipt of records from that Tribunal, the case has been taken on file as I.D. No. 378/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 19-2-2001. On receipt of notice from this Tribunal, both the parties with their respective counsel appeared before this Tribunal and prosecuted this case further.

This matter came up before me for final hearing on 31-5-2001 upon perusing the Claim Statement, Counter Statement, the other material papers on record, the oral and documentary evidence let in on either side and upon hearing the arguments of learned counsel on either side and this matter having stood over till this date for consideration, this Tribunal has passed the following:—

AWARD

The Industrial Dispute referred to in the above order of reference by the Central Government for adjudication by this Tribunal is as follows:—

"Whether the action of the Management of Indian Bank Madras in denying seniority with effect from 27-2-1981 to Shri V. S. Srinivasa Narayanan, Clerk/Typist in the International Division and not paying him Special Allowance with effect from 12-10-1987 is justified? If not what relief is the said workman entitled to?"

2. The Industrial Dispute between the parties is briefly as follows:—

The Indian Bank Employees Association represented by its General Secretary has raised this industrial dispute espousing the cause of the workman Shri V. S. Srinivasa Narayanan, a Member of the Union As I Party/Claimant, the Union (hereinafter referred to as Petitioner) has contended in the Claim Statement that the concerned workman Shri V. S. Srinivasa Narayanan is employed by the II Party/Management of Indian Bank (herein after referred to as Respondent) as Clerk/Typist. The said workman was initially working at Thiruvotriyur branch in credit division was transferred to Central Office on 14-08-80. The Assistant General Manager told the concerned workman to work under him at the International Banking Division from 15-07-81. It was an oral order. Subsequently, the Central Office International Banking Division was changed into Central Office, International Division on 6-4-81 by the order of the Respondent/Bank. Though the said workman was signing in his attendance register till December 1981, he was asked to sign in a separate attendance register from 1982. The last day on which the workman signed in the attendance register for the Central Office Credit Division was on 27-02-1981. Finally, the Personnel Department gave a letter dated 27-04-1984 posting the workman to Central Office International Division. In the said posting order, his seniority was not dealt with. It was not stated as to

from which station the said workman was transferred to the Central Office, International Division. Both in person and through written representation, the said workman requested the Management to recognize his services in the Central Office, International Division from the date of his initial joining. By an order dated 30-6-88, the Respondent turned down the said request. Even though, the other workmen who were first deputed from other places and subsequently taken in the COID, were given due seniority. When the workman attempts to convince the Respondent, failed, the Petitioner Union took up his cause and raised an industrial dispute before the Assistant Labour Commissioner (Central), Madras. Since he could not bring about a mediation, he sent a failure report to the Government.

3. The Respondent in their Counter Statement, while denying the averments of the Claim Statement, has stated that the concerned workman was working in Central Office from 14-08-1980 as a Clerk cum Typist in Overseas Credit Desk within the Credit Division. In another floor of the Central Office, the International Banking Division was functioning. The concerned workman was not working in the International Banking Division with effect from 27-2-1981 as averred by the Petitioner Union. The International Banking Division was renamed as International Division on 6-4-1984. At the request of the concerned workman Sri V. S. Srinivasa Narayanan he was transferred to International Division on 26-4-1984. Thus, his seniority in that International Division commence only from the date of his joining in that division and therefore there is no scope for him to claim his branch seniority from 27-2-1981 in the International Division. He again made a request for transfer to Overseas Branch, Madras and based on that he was relieved on 12-07-1988 to join Overseas Branch, Madras. While working in the International Division, the concerned workman was not the Senior-most Clerk to whom the post of Telex Operator could be assigned. A workman is entitled to Special Allowance only so long as he is incharge of performance of the duties attracting special allowance and such entrustment is done by an order in writing. In the case of the concerned workman, there was no occasion or warrant for assigning the Telex Operator's post to him as he was not Senior-most Clerk in the International Division. It was only under such circumstances, when he made a representation on 30-6-88, claiming seniority for assigning Telex Operator duty, the Respondent/Bank rightly declined the demand made by him, belatedly, four years after his transfer to International Division. The concerned workman was never on deputation either to International Banking Division or to International Division as it then was. The dispute raised by the Claimant Association is based on misconception of facts. The concerned workman himself belatedly made a demand for the first time half heartedly on 30-6-88 and thereafter, perhaps seeing reason kept quite. Three years thereafter, the Claimant association, after his transfer to Overseas Branch, Madras, has belatedly sought to stake a claim in 1991 asking for payment of special allowance from 12-10-1987. The concerned workman is neither eligible nor entitled to be paid any special allowance for any period. The Senior-most Clerk in International Division had been assigned the Telex Operator's duty and he was paid the special allowance intended therefor. The allowance being a performance allowance, it cannot be paid to Sri V. S. Srinivasa Narayanan as he never discharged Telex Operator's duties. Sri V. S. Srinivasa Narayanan was not eligible and entitled to claim special allowance either before 27-4-87 (as he was not working in International Division) or after 27-4-87 till 12-07-1988 (as he was not the Senior-most Clerk in the Central Division) warranting the assignment of Telex Operator's post. The claim made by the Claimant Association is imaginary, hypothetical, belated and based on distorted version and therefore liable to be rejected by this Tribunal.

4. Prior to the transfer of this case to this Tribunal from the Tamil Nadu State Industrial Tribunal, the General Secretary of the Claimant/Union had deposed before that Tribunal as WW1 and an official working in the Respondent/Bank International Division one Mr. G. C. Sreenivasan was examined as Management witness No. 1. The documents have been marked on either side as Ex. W1 to W11 and M1 to M13. Subsequent to the transfer of this case to the file of this Tribunal, four more documents have been marked on the side of the Management by the consent of the counsel for the Petitioner as Ex. M14 to M17. Then the counsel on either side have advanced their respective arguments.

5. The points for my consideration are—

- (a) "Whether the claim of the Petitioner Union that Workman Sri V. S. Srinivasa Narayanan, Clerk/Typist, was the Senior-most in the International Division of the Respondent/Bank w.e.f. 27-2-1981? If not, the denial of seniority, prayed by the concerned workman, by the Management of Indian Bank is justified?"
- (b) "Whether the workman Sri V. S. Srinivasa Narayanan is entitled for Special Allowance with effect from 12-10-1987? If not, the non-payment of Special Allowance by the Respondent/Bank to the said workman from 12-10-1987 is justified?"

Point (a) and (b) :—

It is admitted that the workman concerned Sri V. S. Srinivasa Narayanan, who was working at Thiruvotriyur Branch of the Respondent/Banks as Clerk Typist, was posted to Credit Division of the Indian Bank, a Department at Central Office on 14-8-1980 and he was working there till he was posted to work at Overseas Desk at Credit Division, a Department at the Central Office from 27-02-1981. It is also admitted another department in the Central Office of the Respondent/Bank, International Banking Division was renamed as International Division in 1984. By an order dated 26-4-1984 on two request of the workman Sri V. S. Srinivasa Narayanan, he was transferred to International Division and he was working in that Division from 27-4-1984. Ex. M13 is a xerox copy of the letter dated 7-8-1986 from the Chief Officer, International Division to Chief Officer, Personnel Department. In that letter facts regarding fixing seniority has been furnished, wherein it is stated that on receipt of the posting order dated 26-4-1984, Sri V. S. Srinivasa Narayanan, name was included in International Division attendance register as last name on 27-4-1984 and he is being given seniority from 27-4-1984. Ex. M16 series are the xerox copies of the attendance register extract for the month of April, 1984 maintained by the International Division. It is seen from this documents that the concerned workman Sri V. S. Srinivasa Narayanan had signed in the attendance register on 27-4-1984. It is seen from this document that he was the last person included in the attendance register as serial number 38. The information furnished in Ex. M13 is in accordance with the entry available in Ex. M16. It is not disputed by the Claimant Union. So the contention of the Respondent/bank that the seniority of Sri V. S. Srinivasa Narayanan is to be reckoned only from 27-4-1984 in that department is correct and the claim of the I Party/Union that the seniority of the concerned workman is to be reckoned in that department from 27-2-1981 is not correct. It is admitted that the concerned workman was posted to work at Overseas Desk at Credit Division, a department in the Central Office from 27-2-1981. It is also seen from the records filed on the side of the Management as Ex. M15, a separate attendance register for Overseas Desk Credit Division, the concerned workman Sri V. S. Srinivasa Narayanan was separately signing in that attendance register. This is also not disputed by the Claimant/Union. The documents filed by the Respondent/Management i.e. attendance register for International Banking Division from 1981 onwards on the request of I Party/Claimant clearly show that Sri V. S. Srinivasa Narayanan, the concerned workman was separately signing in the attendance register of International Banking Division from February, 1981. The xerox copies of the same have been marked as Ex. M14-series. From that it is seen that the concerned workman has signed in this register from February, 1981 to December, 1981. Ex. M15 series are the xerox copies of the attendance register from January 1982 to April, 1984, as a separate attendance register maintained for Overseas Desk of Credit Division. In that the concerned workman Sri V. S. Srinivasa Narayanan had signed as a workman belonging to Overseas Desk of Credit Division in the Central Office of the Respondent/Bank.

6. It is the evidence of WW1, the Secretary of the I Party/Union that on 6-4-1981, the International Banking Division and the Overseas Desk of Credit Division of the Respondent/Bank were merged together. But it is not pleaded so in the Claim Statement. It is the contention of the Respondent/Bank that there was no such merger on 6-4-1981. It is seen from records that a petition has been filed by the I Party/Union requesting the Tribunal to direct the Respondent/Management to produce an order passed by the Respondent/Bank for the merger of those two Divisions on 6-4-1981. The Respondent/Management had filed a Counter in that petition denying one such merger and stating that no such order did arise. Applying this reply of the Respondent/Bank in their Counter, the Tribunal had dismissed that petition earlier. So from this it is seen that the Petitioner/Claimant had wrongly assumed that there was a merger of the above said two Divisions on the Respondent/Bank on 6-4-1981. Further, WW1 in his evidence has stated that the concerned workman Sri V. S. Srinivasa Narayanan went on deputation to International Banking Division but it was not pleaded so in the Claim Statement. The concerned workman, though available also has not chosen to come to the box to give evidence in support of the stand taken by the I Party/Claimant Union on his behalf in this industrial dispute. No reason also has been given for the same. It is a specific contention of the Respondent/Bank that the said workman was never on deputation. So under such circumstances, in the absence of any acceptable evidence, it cannot be said that the concerned workman was on deputation in the International Banking Division as spoken to by WW1.

7. The Respondent/Management has filed xerox copies of the documents dated 2-7-1981, 16-3-1982, 6-1-1983 and 22-10-83 and 06-01-1984 as Ex. M1 to M5 respectively. All these documents clearly show that the concerned workman Sri V. S. Srinivasa Narayanan was working in Overseas Desk of Credit Division between 1981 and April, 1984. Under Ex. M9, the xerox copy of a communication of International Banking Division to the Personnel Department of the Respondent/Bank, it is stated that there was nobody in the International Banking Division on 7-10-81 by name Sri V. S. Srinivasa Narayanan working in that Division. Like that under a letter dated 22-7-1988 the International Banking Division wrote to the Assistant General Manager (Personnel) of the Personnel Department of the Respondent Bank stating that the name of the workman Sri V. S. Srinivasa Narayanan has included in the attendance register as attached to Credit Division but not included in their manpower position. The xerox copy of the same is Ex. M2. In Ex. M12 also it is stated that the concerned workman belongs to Overseas Desk of Credit Division and not to International Division from 27-2-1981. It is disclosed from the documents filed by the Respondent/Management that the concerned workman belong to International Division only from 27-4-1984 at his request for transfer to that division. It is not disputed that the Senior-most Typist in the department in which the Telex machine is situated is entitled to be posted as Telex Operator and as Telex Operator he will be paid special allowance and it is pursuant to understanding and agreement reached between the Management and the recognized federation of Indian Bank Employees' Union. From the available records on the side of the Management, it is seen that the concerned workman Sri V. S. Srinivasa Narayanan was not the senior-most person in the department to hold the post of telex operator. It is not disputed that Mr. G. C. Srinivasan is working as Telex Operator from 1982. From the entries available in the attendance register for April, 1984 Ex. M16, it is seen that apart from one Sri G. C. Srinivasan there are two other Clerk cum Typists Sri A. K. Sampath and Sri N. Natarajan working in the International Division prior to Sri Srinivasa Narayanan joining the said department on transfer on 27-4-1984. From this it is evidently clear that the claim for seniority by the concerned workman in that International Division is not correct and on that basis his claim for special allowance for Telex Operator is also not correct. The documents filed by the I Party/Claimant have not established the stand taken by the Claimant/Union in respect of the concerned workman for claiming seniority and for claiming special allowance for him. Hence, it is seen that the Petitioners' association has not made out a case to get the relief prayed for. So, under such circumstances, the claim of the Petitioner Association to fix the seniority for the workman Sri V. S. Srinivasa Narayanan with effect from 27-2-1981 by the Management and the claim for special allowance for the concerned workman from 12-10-87, cannot be accepted as correct. The contention of the Respondent/Bank that one

Sri G. C. Srinivasan, who joined the International Banking Division has been holding the Telex Operator post right from the year 1982 is not disputed.

8. The averments in the Counter Statement that the workman himself half-heartedly and belatedly made a demand for the first time on 30-6-1988 and thereafter perhaps seeing reason kept quiet and that three years thereafter the Claimant Association after his transfer to Overseas Branch, Madras, has belatedly sought to stake a claim in 1991 asking for payment of special allowance from 12-10-1987 has not been denied. From the materials available in this case, it is clearly seen that the Petitioner Association has raised this case belatedly for misconception of facts. There is ample evidence available in this case to show that during the period under which the concerned workman worked in the International Banking Division of the Respondent from 27-4-1984 he was not the senior-most clerk to be assigned the Telex Operator's post. Hence, it is seen that the claim made by the Claimant Association is baseless, hypothetical and imaginary besides being belated. Hence, the Petitioner/Union cannot be granted the relief claimed on behalf of the concerned workman in this industrial dispute against the Respondent/Management. Thus, I answer the points accordingly.

9. In the result, an award is passed holding that the action of the Management of Indian Bank, Madras in denying seniority w.e.f. 27-2-1989 to Sri V. S. Srinivasa Narayanan, Clerk/Typist in the International Division and not paying him special allowance w.e.f. 12-10-1987 is justified. Hence, the concerned workman is not entitled to any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 27th June, 2001.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :

For I Party/Claimant :

WW1—Shri K. Krishnan

For II Party/Management :

MW1—Shri G. C. Srinivasan

DOCUMENTS MARKED :

For I Party/Claimant :

Ex. No.	Date	Description
W1	11-12-87	Xerox copy of the Representation by the I Party/Union to the Management.
W2	27-05-88	Xerox copy of the Representation by the I Party/Union to the Management.
W3	22-03-91	Xerox copy of dispute raised by the Union before the Assistant Labour Commissioner (Central), Chennai.
W4	19-07-93	Xerox copy of remarks made by the Management to the Assistant Labour Commissioner (Central), Chennai.
W5	24-09-93	Xerox copy of rejoinder by the Union before the Assistant Labour Commissioner (Central), Chennai.
W6	30-09-93	Xerox copy of failure report of the Assistant Labour Commissioner (Central), Chennai.
W7	26-09-83	Xerox copy of letter addressed by Mr. M. E. S. Raghavan to Mr. Srinivasanarayanan.
W8	1983	Original of statement of P.F. Subscription account issued by the Respondent to Mr. Srinivasanarayanan.
W9	1984	Original of statement of P.F. Subscription account issued by the Respondent to Mr. Srinivasanarayanan.
W10	03-06-83	Xerox copy of letter from the Personnel

Series 29-9-93 Department to the Co-International
Division.
17-11-83
03-01-84
14-03-84
20-11-84

W11 30-06-88 Xerox copy of letter from the Personnel
Department to the Co-International
Division.

For the II Party|Management :

Ex. No.	Date	Description
M1	02-07-91	Xerox copy of letter from the Petitioner to Respondent.
M2	22-07-81	Xerox copy of letter from Chief Officer to Assistant General Manager.
M3	06-01-83	Xerox copy of the letter of annual increment to petitioner.
M4	16-03-82	Xerox copy of letter from Petitioner to Respondent.
M5	06-01-84	Xerox copy of letter from Petitioner to Respondent.
M6	31-07-85	Xerox copy of letter from Petitioner to Respondent.
M7	22-10-83	Xerox copy of the letter of annual increment to petitioner.
M8	22-07-86	Xerox copy of letter from Chief Officer, Personnel Department to International Division.
M9	07-07-81	Xerox copy of letter from Assistant General Manager to Personnel Department.
M10	06-06-88	Xerox copy of letter from Personnel Department, to Inter Departmental Division.
M11	06-01-84	Xerox copy of inter departmental letter on the request of Petitioner's transfer.
M12	13-02-94	Xerox copy of inter departmental letter on the request of Petitioner's transfer.
M13	07-08-86	Xerox copy of letter from Chief Officer, International Division to Chief Officer, Personnel Department.
M14	Nil	Relevant abstract and extract of attendance Register of the International Banking Division for the year 1981 from February to December.
M15	Nil	Relevant abstract and extract of attendance Register maintained for Overseas Desk of Credit Division from Jan. 1982 to April, 1984.
M16	Nil	Attendance register extract of the month of April, 1984 maintained by International Division.
M17	Nil	Relevant abstract and extract of leave sheet showing that the petitioner was working in various departments from 1977 to 1988.

नई दिल्ली, 01 अगस्त, 2001

का.प्र. 2244.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार देना बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/वन न्यायमन्त्र-II,

मुम्बई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-7-01 को प्राप्त हुआ था।

[का.सं. एल-12012/177/98-आई धार (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 1st August, 2001

S.O. 2244.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal|Labour Court-II, Mumbai, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Dena Bank and their workman, which was received by the Central Government on 31-7-2001.

[F. No. L-12012/177/98-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, MUMBAI

PRESENT :

S. N. SAUNDANKAR,
Presiding Officer.

Reference No. CGIT-2/63 of 1999

EMPLOYERS IN RELATION TO THE MANAGEMENT OF DENA BANK

The Asstt. Gen. Manager (P),
DB, 7th Floor,
Maker Towers, 'E' Wing,
P.B. No. 6058,
Cuffe Parade,
MUMBAI-400005.

AND

THEIR WORKMEN

The General Secretary,
Dena Bank Employees Union,
17, Horniman Circle,
Fort,
Mumbai-23.

APPEARANCES :

For the Employer : S/Shri S. K. Talsania & J. K. Mistry,
Advocates.

For the Workman : Shri M. B. Anchan, Advocate.

Mumbai, dated 16th July, 2001

AWARD

The Government of India, Ministry of Labour, by its Order No. L-12012/177/98/IR(B-II), dated 25-2-1999—8-3-99, have referred the following dispute for adjudication to this Tribunal in exercise of powers conferred on it by Clause (d) of Sub-section (1) and Sub-section (2A) of Section 10, of the Industrial Disputes Act, 1947.

"Whether the action of the management of Dena Bank, Mumbai in superannuating the workman Shri S. I. Tiwari on the basis of the date of birth recorded on 5-9-1937 from service of the Bank is justified? If not, then what relief the workman is entitled to?"

2. The workman Shri S. I. Tiwari had entered into service of the Dena Bank as a watchman, on 23-3-1961. He was asked to produce School Leaving Certificate for verification of his age and accordingly he had produced school leaving certificate issued to him by the Barvarshah Intermediate College, Bharkhare, Sultanpur, mentioning his date of birth 20-10-1942. He had applied for getting himself enrolled as the member of the Home Guards, Bombay showing his date of birth 20-10-42 on the basis of the School Leaving Certificate, where-upon the bank asked his

explanation on mentioning wrong date of birth, and that according to the bank, his date of birth as mentioned in cyclostyled form of the bank was 5-9-1937, i.e. 23 years and that was recorded in his service record. The workman denied the same, contending his date of birth as 20-10-42 and not 5-9-1937. He consequently requested the bank management to enter his correct date of birth, in the year 1967. It is contended by the workman that the bank closed the matter and that the bank recorded his date of birth 20-10-42, while granting housing loan in 1974 and promoting him in the cadre of clerk in 1975 and while sanctioning additional housing loan in 1983 and further in the Seniority list of clerk in the year 1992 and further in the pension form in 1996. It is contended that in the ration card and the L.I.C. Policy he had mentioned his date of birth as 20-10-42. Those were with the bank and consequently his retirement after superannuation of 60 years, would be 31-10-2002. However, the management in spite of recording his date of birth 20-10-42, treated him treating his date of birth as 5-9-1937 on 30-9-97, illegally. It contended workman through union approached the bank authorities but in vain, and consequently he moved the Assistant Labour Commissioner (C). However, Conciliation failed. Therefore the workman contended that his date of birth being 20-10-42 on the basis of the School Leaving Certificate, he would retire on 31-10-2002, after completion of 60 years of his age. However, as the management illegally retired him treating his date of birth 5-9-1937, bank be directed to reinstate him and to give full back wages and continuity in service. The Union vide Rejoinder (Exhibit-8) reiterated the recitals in the Statements of Claim.

3. The management Dena Bank resisted the claim of workman by Written Statement (Exhibit-7) contending inter-alia that; the allegation made against the bank are false and that the workman while entering the service submitted Bio-data in cyclostyled form declaring his age as 23 years and his date of birth 5-9-1937, and that the same was entered in the service record, which is still, not changed. It is contended that the workman never produced the School Leaving Certificate with the bank though demanded even at a later stage. His explanation was consequently asked on the discrepancy in the date of birth declared by him at the time of appointment and as mentioned in the application which he wanted to submit to the Commandant, Home Guards, Bombay for enrollment as a member of Home Guard. It is contended that the workman in spite of giving opportunity did not produce the School Leaving Certificate and consequently matter was ended there, confirming his date of birth as mentioned in the cyclostyled form, and that on that strength of the service record, the bank retired the workman after completing 60 years of age on 30-9-1997, rejecting his representation made at the far end. It is contended that School Leaving Certificate now, filed by the workman is bogus, and that the officer-in-Charge erred in verifying the applications of loan given by the workman, and that he had no authority to make any change in the service record of the employees. It is contended that workman was not promoted to the clerical cadre on the basis of his date of birth but because he had passed written examination, where the date of birth is not relevant. It is contended that on the basis of the declaration of date of birth furnished at the time of entering in the service, bank has rightly retired the workman on 10-9-1997, and consequently his claim being false and frivolous be dismissed in toto.

4. On the basis of the pleadings My Learned Predecessor framed issues at (Exhibit-9). The workman Shri S. I. Tiwari filed his affidavit (Exhibit-12) and closed evidence by purshis (Exhibit-26) and that on behalf of the management Manager (Personnel) Mr. Robert Kerketta was examined at Exhibit-27 and closed evidence by (Exhibit-28).

5. Heard the Learned Counsel Shri M. B. Anchan for the union and Shri S. K. Talsania for the management. I have gone through the written submissions filed by the union (Exhibit-29 and 31). On going through the record as a whole and hearing the counsels I record my findings on the issues for the reasons mentioned below

Issues

Findings

- | | |
|---|---|
| 1. Whether the action of the management of Dena Bank Mumbai in superannuating the workman Tiwari on the | Action of management is not legal and proper. |
|---|---|

basis of the date of birth recorded as 5-9-37, from the service of the bank, is justified?

2. If not, what relief the workman is entitled to? As per order below

REASONS

6. Admittedly worker Mr. S. I. Tiwari had entered in the service of Dena Bank as watchman on 23-3-1961, and that as per the Bi-partite Settlement the age of superannuation of the workman is sixty years. According to workman Mr. Tiwari at the time of appointment in Dena Bank he was asked to produce school leaving certificate for verification of his age and accordingly he had produced the school leaving certificate issued by Baryarshah Inter Mediate College, Bharkhare, Sultanpur and thereafter there was no correspondence from the bank on his date of birth. However, when he applied for permission for getting himself enrolled as a member of home guards showing his date of birth as 20-10-42 on the basis of the School Leaving Certificate, bank asked his explanation about his date of birth vide memo dtd. 6-12-65, 28-12-65, 14-1-66, 28-2-66 and 31-3-1967 which he replied on 10-12-65, 6-1-66, 24-6-67, stating his date of birth as 20-10-42 and that later on bank stopped correspondence and that on fine morning by the notice dtd. 13-8-97 he has been retired on 30-9-97 treating his date of birth as 5-9-1937, which he resisted before the Assistant Labour Commissioner (C), but went in vain.

7. Banks contention is that vide application submitted by the workman at the time of getting employment in the bank in the Bio-data in cyclostyled form, declared his age as 23 years and date of birth as 5-9-1937 which is the service record of the workman, which has not been changed at any point of time and therefore on reaching the age of superannuation, he has been retired on 30-9-1997.

8. The workman Mr. Tiwari denied that he gave any application and his date of birth is 5-9-1937 in the Bio-data. He admits that one Sitaram Singh recommended him. Cyclostyled form (Exhibit-10/1) filed by bank mentions name of Sitaram, however, Mr. Tiwari disputes his signature on the form. On plain reading of this form, it does not bear the signature of the bank authority nor the date, nor it shows that it was received by the bank and it was part of service record. This does not even show that it was given by workman at the time of joining the service. If really bank recorded the date of birth of the workman on the basis of this form, certainly form would have find endorsement to that effect, or atleast it would have mention the date of receipt of the same with the signature, of the concerned officer of the bank. However, that is wanting and consequently hardly this form would help the bank.

9. Admittedly workman Mr. Tiwari was promoted as a clerk in the year 1975. The Seniority list of the clerical staff prepared by the Personnel Department (Exhibit-11/19) mentions the name of workman at Serial No. 504 and date of birth 20-10-42. Bank Manager Mr. Robert Kerketta admits in his cross-examination para-7, that for promotion to the clerical cadre from sub-staff educational qualification, number of years of experience, age are material factors. According to Mr. Kerketta, above said seniority list is not authentic, however it is difficult to digest in view of position on record.

10. Apart from this, workman has filed house loan applications in the year 1974 and 1983 (Exhibit-11/14) which mentions his date of birth 20-10-42. This form was verified by the bank's officer Mr. Subramaniam and found correct. According to Mr. Kerketta Mr. Subramaniam was not the proper authority to verify. When admittedly Subramaniam was the loan sanctioning authority badly can be said that without verification of age he sanctioned the loan in as much as, while sanctioning the loan and fixing installments the period of service is mainly considered. Not only in the year 1974 but in the year 1983 when additional housing loan was granted application mentioning the same date of birth was verified and found correct, without giving date of birth was verified and found correct, without giving bank, and verifying the date of birth in the application with the said record, the concerned officer must have granted the loan.

11. Not only in the year 1974 & 1983 but in 1992 when the pension option form, (Ex-11/20) was prepared the Chief Manager on verifying the date of birth 20-10-42, found the same correct necessarily on the basis of the record with the bank considering the seniority list, applications for housing loan and pension option form, it is clear that the bank, which maintained those record, itself recorded the date of birth of workman Shri S. I. Tiwari as 20-10-42 and not 5-9-1937.

12. It is pertinent to note that for the first time in the year 1965, when workman applied for promotion for getting himself enrolled as a member of home guard mentioning his date of birth 20-10-42 the bank asked his explanation and lastly in the year 1967, co-correspondence appear to have been continued. However, bank did not issues any notice after 1967 directing workman to produce his School Leaving Certificate. No action appear to have taken by the bank as mentioned in the memo against the workman. This shows that the bank accepted his date of birth as 20-10-42. It is material to note that after 1967, workman, as seen from the record, made applications for housing loan, bank prepared Seniority list and pension papers etc. Had really bank possessed date of birth as 5-9-37 on the basis of the alleged Bio-data, bank would not have after 1967 mentioned his date of birth as 20-10-42. Thus, the bank's record itself shown that the date of birth of Shri S. I. Tiwari is 20-10-42 and consequently after superannuation i.e. 60 years as per the Bi-partite Settlement Mr. Tiwari, would retire on 31-10-2002.

13. The Learned Counsel Mr. Talsania for the management submits that, as per the bank rules service record does not change and if at all it requires, changes can be made only by Chairman of the Managing Director and not the subordinate Mr. Kerketta in his evidence para 7 disclosed that Chief Manager, Deputy General Manager and General Manager are not the authorities to effect change of date of birth. Documents on record, filed by the workman with written submission (Ex-31) throws light on this letter dtd. 16-2-93 of Personnel Manager, Dena Bank shows that one Kishiprasad Tiwari of Dena Bank was to retire as per his date of birth 31-1-33 on 31-1-82, however, by the letter dtd. 9-3-82 considering his changed date of birth, he was permitted to retire accordingly. This clearly indicates that the Chief Officer (Personnel) is also the Competent Authority in this context. Consequently the submission of Mr. Talsania is devoid of substance.

14. The date of birth of the employee is not only important for the employee but for the employer also. On the length of service put by the employee depends the quantum of retiral benefits he would be entitled. On this context the service record prepared by the bank assumes importance. On this back ground, the Learned Counsel Mr. Talsania submits that permitting the change in the date of birth in likely to cause frustration down the line resulting in causing adverse effect on efficiency in functioning. He submits Their Lordships of the Apex Court in G.M. Bharat Coking Coal Ltd. W.B. vs. Shiv Kumar Dushad 2001 I.A.B. I.C. 28 ruled that normally at the far end of service change in the date of birth needs caution. In the case in hand, immediately after joining the service by the workman point on date of birth cropped up and continued till 1967 and thereafter the bank itself taken note of the date of birth of workman 20-10-42 in their record, as discussed supra. Therefore it is not that at the far end workman, raised dispute on his date of birth.

15. On going through the record as a whole, it is clear that the bank's records indicates the date of birth of workman Shri S. I. Tiwari as 20-10-42 and not 5-9-1937 and despite this the workman has been retired on 30-9-1997 on superannuation treating his date of birth 5-9-1937, erroneously. The action of the management is absolutely not proper and justified. Consequently workman will have to be treated in continuous service till the superannuation i.e. 31-10-2002 resulting in getting consequential monetary benefits. Issues are therefore answered accordingly and hence the order —

ORDER

The action of the management of Dena Bank, Mumbai in superannuating the workman Shri S. I. Tiwari by treating his date of birth as 5-9-1937 is not just, proper and legal.

Mr S. I. Tiwari would retire as per his date of birth in service records, as 20-10-1942 on superannuation on 31-10-2002.

He should be treated in continuous service and is entitled to back wages and consequential monetary benefits.

S. N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 2 अगस्त, 2001

क.प्र. 2245.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्विवाद औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अथवा न्यायालय चेन्नई के पंचाद को प्रकाशित करती है, जो केन्द्रीय सरकार को 02-08-2001 को प्राप्त हुआ था।

[सं एल-12012/350/95-आई प्रार (बी-II)]

सी गंगाधरण, प्रार सचिव

New Delhi, the 2nd August, 2001

S.O. 2245.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Chennai as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Indian Bank and their workman, which was received by the Central Government on 2-8-2001.

[No. L-12012/350/95-IR(B-II)]

C. GANGADHARAN, Under Secy

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 18th July, 2001

PRESENT :

K. Karthikeyan, Presiding Officer.

INDUSTRIAL DISPUTE NO. 420/2001

(Tamil Nadu State Industrial Tribunal ID No 11/97)

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Workman Shri G. Gopi and the Management of Indian Bank, Chennai)

BETWEEN

Shri G. Gopi I Party/Workman.

AND

The Zonal Manager, : II Party/Management.
Indian Bank

APPEARANCE :

For the Workman : Sri S. Bakthavatsalu, Authorised Representative.

For the Management : Sri G. Venkatarajan, Advocate.

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned Industrial Dispute for adjudication vide Order No L-12012/350/95-IR B-II dated 10-2-1997.

This reference has been made earlier to the Tamil Nadu Industrial Tribunal, where it was taken on file as I.D. No. 11/97. When the matter was pending enquiry in that Tribunal, the Govt. of India, Ministry of Labour was pleased to order transfer of this case from that Tribunal to this Tribunal for adjudication. On receipt of records from that Tribunal, the case has been taken on file as I.D. No. 420/2001 and notices were sent to the authorised representative for the I Party/Workman and the counsel for the II Party/Management, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 23-2-2001. On receipt of notice from this Tribunal, the authorised representative for the I Party/Workman and the counsel for the II Party/Management were present with their respective parties and prosecuted this case further.

When the matter came up before me for final hearing on 31-5-2001, upon perusing the Claim Statement, Counter Statement, other material papers on record, the oral and documentary evidence let in on either side and upon hearing the arguments of the authorised representative for the I Party/Workman and the counsel for the II Party/Management, and this matter having stood over till this date for consideration, this Tribunal has passed the following :—

AWARD

The Industrial Dispute referred to in the above order of reference by the Central Govt. for adjudication by this Tribunal is as follows :—

“Whether the action of the Management of Indian Bank, Madras in terminating the services of Shri G. Gopi, an Ex-sub Staff without holding proper enquiry and not complying the provisions of I.D. Act, 1947 is just and legal? If not, to what relief is the workman entitled?”

2. The averments in the Claim Statement filed by the I Party/Workman are briefly as follows :—

The I Party/Workman Sri G. Gopi (hereinafter referred to as Petitioner) was recruited as attender in the Indian Bank, Otteri Branch, upon selection in the interview dated 4-1-1993 from out of the candidates sponsored by the Employment Exchange. He joined the service of the Respondent Bank on 11-2-1983 and was confirmed against the permanent vacancy. He was paid yearly bonus for the year 1984 and subsequent years. He was retrenched from service on 30-9-1987, without any notice and without affording any opportunity of being heard. That order of removal from service was issued to the Petitioner by an authority, who is lower in rank than the General Manager/Appointing Authority. As the said order was not preceded by a show cause notice or any enquiry, it is bad in law and a violation of principles of natural justice. So the Petitioner preferred an appeal to the Regional Manager on 13-3-88 requesting him for a personal hearing and for reinstatement of service. Since he received no reply from the authority, he raised an industrial dispute on 18-1-1994 before the Central Labour Commissioner, Madras. As his efforts to conciliate the matter ended in a failure, he sent a failure of conciliation report to the Ministry of Labour, which in turn, referred this matter to the Tribunal for adjudication. The II Party/Management had violated section 25N(b) of the Industrial Disputes Act. Hence, the orders for removal from service become ineffective and the Petitioner is deemed to be in service. Therefore it is prayed that the Tribunal may be pleased to set aside the order of termination and direct the Respondent/Management to reinstate the Petitioner in service with other consequential benefits.

3. The averments in the Counter Statement of the II Party/Management are briefly as follows :

The II Party, the Indian Bank/Management has been having a system of maintaining a panel of temporary sub-staff to work in vacancies of permanent sub-staff going on leave in branch functioning under the control of the Zonal Office. The engagement of empanelled sub-staff has been on day-to-day basis. A panel of persons to work in the vacancies caused by the permanent sub-staff going on leave, who are outside of the regular establishment of the bank. The Zonal Office directs the said empanelled sub-staff to call on the branches to which they are allotted daily. The

engagement as temporary sub-staff is made of persons sponsored through Employment Exchange and selected for this purpose. There is no right to hold the post of sub-staff in the case of such persons. There is no recruitment involved in that. The Petitioner was in the panel of temporary sub-staff of the Otteri Branch and his engagement was purely temporary against the leave vacancy of permanent sub-staff. From 1983 to 1987 in each year he had not worked for 240 days. He worked in the years 1983 to 1987 for a period of 97, 37, 108 and half, 212 and 127 days respectively. The Petitioner's contention that he was recruited and appointed as attender is denied. He was working on temporary day-to-day basis, as and when the permanent sub-staff went on leave. He was not confirmed against permanent vacancy reserved for scheduled caste category of workers. He had no right to hold the post of sub-staff. The empanelled temporary sub-staff have no right to hold the post but they are in the position of pre-recruitment stage. The Petitioner was not retrenched as alleged by him. The disengaging the Petitioner from service is not a violation of principles of natural justice. While working as temporary sub-staff, the Petitioner attempted to commit fraud. On 13-5-1987, Smt. Kanthanmmal, a widow and an illiterate woman came to the bank to deposit a sum of Rs. 1,000 in her S.B. account No. 20043. The Petitioner who wrote the challan for the same and after the amount was credited in that S.B. Account he changed the amount of Rs. 1000 as Rs. 4000 in the ledger and made the balance to Rs. 4565.20. Again on 7-7-87, the Petitioner changed the amount of Rs. 500 deposited in the account of Smt. Kanthanmmal to read as Rs. 2,500 in the ledger and he destroyed both these vouchers for Rs. 1,000 and Rs. 500 respectively. On 18-7-87, in the same account No. 20043, the Petitioner put the folio number in the pay order for withdrawal Rs. 200 without making entry in the ledger and entered it in the token register. The withdrawal form bore only the folio number without there being debit in the ledger. When the Petitioner was questioned about the alterations made by him and about the withdrawal form without there being debit in the ledger, he gave a letter of confession admitting the fraudulent attempts made by him, by his letter of confession dated 18-7-1987. A police complaint was given by the bank to the Central Crime Branch, Egmore, Madras. The same was taken on file by the said office as Crime No. 953/87 under section 465, 477A and 420 IPC and on registration of complaint, the police had investigated the matter and the criminal case is pending against him. The Respondent Bank issued a show cause notice dated 3-9-87 asking him to show cause as to why his name should not be removed from the panel, though in law, there was no necessity for the Respondent to follow this procedure. Since the Petitioner was a person, who was engaged on day-to-day basis and he was not holding the post of sub-staff in the bank. The Petitioner gave a reply dated 21-11-87, which was contrary to the confession in writing made by him and was not satisfactory. This is a case of removal from the panel of a person who had been engaged in leave vacancies as sub-staff and who had no right to hold the post of sub-staff. The Petitioner was outside the purview of the regular establishment of the bank. There is no retrenchment involved in the matter and the provision of Industrial Disputes Act is of no application to this case. Hence, it is prayed that this Tribunal may be pleased to reject the claim of the Petitioner.

4. When the matter was taken up for enquiry, the Petitioner examined himself as WW1 and has filed seven documents as Ex. W1 to W7. On the side of the II Party/Management, one Mr. T.N. Venkatraman, the Branch Manager of Vadalapalam branch of the Respondent Bank was examined as MW1, 14 documents were marked on the side of the Management as Ex. M1 to M14. On completion of evidence on either side, the learned authorised representative for the I Party/Workman and the learned counsel for the II Party/Management have advanced their respective arguments.

5. The point for my consideration is—

“Whether the action of the Management of Indian Bank, Madras in terminating the services of Shri G. Gopi, an Ex-sub Staff without holding proper enquiry and not complying the provisions of I.D. Act, 1947 is just and legal? If not, to what relief is the workman entitled?”

Point :—

It is admitted that the Petitioner Sri G. Gopi was working as a sub-staff in the Otteri Branch of the Respondent Bank.

It is the plea and the evidence of the Petitioner that he was selected and posted as an attender in a vacant post in Otteri Branch of the Indian Bank. He denied the suggestion that he worked as a temporary sub-staff in the leave vacancy of the permanent sub-staff. MW1 was working as a Branch Manager of Indian Bank, Otteri Branch from August, 1986 to March, 1989 says that he knew the Petitioner Mr. Gopi and that he was working there as a temporary sub-staff in the leave vacancy, when he was the Branch Manager of the Otteri Branch of Indian Bank. Ex. W1 is the xerox copy of an intimation dated 12-12-1982 sent by the Zonal Office, Indian Bank, Madras, to the Petitioner wherein he was informed to appear for an interview for the post of sub-staff in the temporary vacancy. Ex. W2 is the xerox copy of a communication sent by the Zonal Manager to the Manager of the Otteri Branch of the Respondent Bank, informing him that the Petitioner has been selected for engagement as temporary sub-staff in the Otteri Branch and his name may be included in the panel and he may be engaged as per rules. The Petitioner as WW1 has admitted the same. He has also admitted that he worked for 97 days in 1983, 37 days in 1984, 108 and half days in 1985, 212 days in 1986 and 127 days in 1987. He denied the suggestion that he was not a permanent employee of the Respondent Bank. When the alleged incidence of misconduct of manipulation of records in respect of deposit challan concerning the S.B. Account of one Smt. Kanthammal was put to him in cross-examination, he denied the same. He has categorically stated that he had not done so. On the other hand, MW1 has given in his evidence in detail about the act of misconduct done by his Petitioner, while he was engaged as temporary sub-staff in a leave vacancy of a permanent post in the Otteri Branch of the Respondent Bank. In support of his evidence, he has filed the xerox copy of ledger folio as Ex. M14. It is also the evidence of MW1 that the Petitioner has given a confession letter dated 18-7-1987. The xerox copy of the same is Ex. M1. The Petitioner as WW1 has admitted that a letter dated 18-7-1987 was written by him. In that letter, he has admitted his acts of misconduct. He has also admitted in the cross examination that Ex. M2 is the xerox copy of the FIR for the criminal case registered against him by the Central Crime Branch, Egmore, Madras and Ex. M3 is the xerox copy of the show cause notice dated 3-9-87 issued to him and Ex. M4 is the xerox copy of the reply dated 21-11-1987 he has given. In that reply, contrary to his earlier confession statement, he has stated after three months of Ex. M1 that the Branch Manager threatened him and got the confession letter dated 18-7-1987 under undue influence. Fearing for such threat only, he has given that confession letter and has not given on his own. It is also the admission of the Petitioner that a petition filed before Labour Court as CCP No. 18/84 under section 33(C) of the Industrial Disputes Act was dismissed. Ex. M6 is a letter dated 27-2-1988 sent to the Petitioner by the Respondent Bank, Zonal Office informing him that his name has been removed from the panel of temporary sub-staff. Ex. M7 is a xerox copy of letter dated 13-3-88 sent by the Petitioner to the Regional Manager of the Respondent Bank, Madras. MW1 in his evidence has stated that he only preferred the complaint to the Central Crime Branch, Egmore, Madras. He has further stated that the Petitioner does not belong to the regular establishment of the Bank. Hence, there was no necessity for the Bank to conduct a departmental enquiry. He has also stated in the cross examination that for the correction made in the ledger entry the Petitioner Sri G. Gopi himself has admitted. He has further stated that he has not obtained any opinion from the handwriting experts to conclude that the corrections in the ledger entries have made only by the Petitioner Sri Gopi, since he has admitted his misconduct voluntarily. From all these oral and documentary evidence let in on either side, it is seen that the Petitioner Gopi was never employed as a sub-staff in a permanent vacancy by the Respondent Bank and he was posted to work at Otteri Branch of the Indian Bank. On the other hand, there is sufficient oral and documentary evidence to prove that the Petitioner was engaged as a temporary sub-staff in the Otteri Branch of the Respondent Bank in the year 1983 to 1987 intermittently on day-to-day basis as and when the permanent sub-staff went on leave and he was in the panel of the temporary sub-staff of the Otteri Branch to be engaged temporary in the leave vacancy of the permanent staff as and when required. The allegation of the Petitioner in his Claim Statement that he was retrenched from service on 30-9-1987 without any notice and without affording any opportunity of being heard is contrary to the facts available

in this case. On the other hand, there is sufficient acceptable evidence is available in this case to show that for the alleged misconduct of the Petitioner, who was working as a temporary sub-staff in the Otteri Branch of the Bank, he was issued a charge sheet for which he gave a reply admitting the misconduct and in pursuance of the same, a criminal complaint has also been preferred by the Bank Manager MW1 and the case has been registered against the Petitioner thereunder. There is also admitted evidence in this case that the Petitioner/Workman had not worked continuously for more than 240 days in a single calendar year. The alleged misconducts against the Petitioner/Workman by the Respondent Bank as stated in the charge sheet Ex. M3, are serious misconducts, which a temporary sub-staff of the Bank is not expected to commit. While the Petitioner gave a reply to the show cause notice, he has not explained anything with regard to the alleged threat and coercion by the Branch Manager. Only three months later under Ex. M4, he has stated so. This clearly shows that he came forward with his belated stand as an afterthought to escape from the charge alleged against him. The evidence of MW1 coupled with Ex. M1 and M14 go to show that even while empanelling the sub-staff, it is only outside the establishment of the bank. Since the Petitioner was not a regular employee of the bank and in view of the admission of the charges by the Petitioner in writing there was no necessity for the bank Management to hold a departmental enquiry against him. The oral and documentary evidence as materials placed before this Tribunal by the Management bank clearly establishes that the Petitioner has committed acts of misconduct, which is very serious in nature. In the order Ex. M6, it is stated that the Petitioner's name has been removed from the panel of sub-section staff, which shows that the Petitioner was never treated as permanent staff of the Respondent Bank and he was not retrenched from service by issuing an order of dismissal from service and it is also not amount to removal from service. It cannot be said that it is an arbitrary and unjustified act of the Respondent Management. So, under such circumstances it can be easily concluded that there is no merit in the claim of the Petitioner/Workman in this industrial dispute and I answer the point in the affirmative.

6. In the result, an award is passed holding that the action of the Management of Indian Bank, Madras, in removing the Petitioner Shri G. Gopi's name from the panel of temporary staff without holding an enquiry is just and legal as the compliance of the provisions of Industrial Disputes Act, 1947 is not warranted. Hence the concerned workman is not entitled to any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 18th July, 2001.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :

For the I Party/Workman:

WW1 Shri G. Gopi

For the II Party/Management:

M.W. 1 Shri N Venkatraman

DOCUMENTS MARKED:

For I Party/Workman:

Ex. No. Date and Description

- W1 12-12-82 Xerox copy of the letter from the Management to the Petitioner.
- W2 27-1-83 Xerox copy of the letter from the Zonal Manager, Indian Bank to the Manager, Indian Bank.
- W3 Nil Xerox copy of letter regarding Bonus for 1984 to the Petitioner
- W4 3-2-86 Xerox copy of letter regarding Bonus for 1985 to the Petitioner.
- W5 13-3-88 Xerox copy of the letter from the Petitioner to the Management.
- W6 18-1-94 Xerox copy of application under section 2A of the I.D. Act, 1947.

W7 Nil Xerox copy of rejoinder filed by the Petitioner before the Conciliation Officer.

For the II Party/Management :

- M1 18-7-87 Xerox copy of confession letter of the Petitioner to the Management.
- M2 12-8-87 Xerox copy of FIR filed against the Petitioner by the Management.
- M3 3-9-87 Xerox copy of the show cause notice to the Petitioner.
- M4 21-11-87 Xerox copy of reply from the Petitioner to the Management.
- M5 19-2-88 Xerox copy of the letter addressed to Crime Branch by the Management.
- M6 27-2-88 Xerox copy of letter of the Petitioner to the Management.
- M7 13-3-88 Xerox copy of letter of the Petitioner to the Management.
- M8 18-1-94 Xerox copy of representation to the Assistant Labour Commissionere (Central) by the Petitioner.
- M9 29-3-93 Xerox copy of application filed by the Petitioner under section 33(c) of the I.D. Act Before the Central Govt. Labour Court at Madras.
- M10 3-4-94 Xerox copy of reply of the Management to Assistant Labour Commissioner (Central).
- M11 27-3-95 Xerox copy of the rejoinder of the Management to Assistant Labour Commissioner (Central).
- M12 Nil Xerox copy of the rejoinder of the Petitioner to the conciliation officer.
- M13 19-1-95 Xerox copy of proof/evidence to the effect that a criminal case is pending against the Petitioner in the crime branch.
- M14 Nil Xerox copy of the ledger folio for the Savings Bank Account No. 20043 of Smt. Kuthammal.

नई दिल्ली, 7 अगस्त, 2001

का.श्रा. 2246.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केन्द्र बैंक के प्रबंधन के संबंध निवृत्तों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय भुवनेश्वर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 06-08-01 को प्राप्त हुआ था।

[फा.सं. एल-12012/341/97-आई आर (बी-II)]

सी. गंगाधरन, श्रम सचिव

New Delhi, the 7th August, 2001

S.O. 2246—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Bangalore as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Canara Bank and their workman, which was received by the Central Government on 06-08-2001.

[F. No. L-12012/341/97-IR(B-II)]
C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-LABOUR COURT "SHRAM SADAN", III MAIN, III CROSS II PHASE, TUMKUR ROAD, YESHWANTHPUR, BANGALORE

Dated : 31st July, 2001

PRESENT :

Hon'ble Shri V. N. Kulkarni, B.Com., LLB,
Presiding Officer
CGIT-cum-Labour Court,
Bangalore.

C.R. No. 43/98

I PARTY

Shri D. Mahadevan,
No 44, 7th Main Road,
Kengasi Upanagar,
Bangalore-560060
(Advocate—Shri K. Surendra Babu)

II PARTY

The Dy. General Manager,
Canara Bank,
Circle Office,
Light House Hill,
Hampankatti,
Bangalore 575001
(Advocate—Shri P. N. Ramesh)

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12012/341/97-IR(B-II) dated 21st April, 1998 for adjudication on the following schedule :

SCHEDULE

"Whether the action of the management of Canara Bank in dismissing the services of Shri D. Mahadevan, clerk w.e.f. 29-6-94 is legal and justified? If not, to what relief the said workman is entitled?"

2. The first party joined the services in Canara Bank as a Clerk in the month of October, 1976. Charge sheet was issued and enquiry was conducted against him. On the basis of enquiry report first party was dismissed therefore, this dispute is raised.

3. Parties appeared and filed Claim Statement and Counter respectively.

4. The case of the first party in brief is as follows :

5. The first party joined the services of the second party as a clerk in the month of October 1976 at Channagiri and subsequently he has been transferred to Kargal and Shikaripura. He has rendered loyal and efficient service. Disciplinary proceedings were initiated against the first party. A false charge sheet was issued and enquiry was not fair and proper. The finding given by the Enquiry Officer is perverse. The first party has stated in detail that full opportunity was not given to him to defend himself.

6. In para 7 of the Claim Statement it is said that the material was insufficient but the finding of the enquiry officer, holding that the misconduct is proved is not correct. First party for these reasons has prayed to pass award in his favour.

7. The case of the second party in brief is as follows :

8. It is true that the first party was working in IPD department of Shikaripura Branch as a Clerk having staff No. 19686. The first party workman fraudulantly withdrew a sum of Rs. 887.25 being the proceeds of the overdue NNND Deposit. For this act of misconduct charge sheet was issued. Enquiry was held.

9. It is the further case of the management that the enquiry is proper and full opportunity was given to the first party and on the basis of the report action was taken and the

action of the management is correct. Allegations made by the first party so far as enquiry is concerned are not correct. The management for these reasons and for some other reasons has prayed to reject the reference.

10. It is seen from the records that the management has examined MW1 and thereafter WW1 got examined himself. Thereafter MW1 has also filed affidavit.

11. It is seen from the records that this court by its order dated 15th September 1999 has held that the Domestic Enquiry is Fair and proper and thereafter the matter was posted for arguments. None were present on hearing dates. Therefore the matter was posted for award. I have carefully perused available records and the enquiry proceedings.

12. In view of the fact that the enquiry is held as fair and proper now we will have to see whether the enquiry report is correct or there is any perversity in it. Further we have to see whether the punishment is proper and correct.

13. In the instant case there is nothing on record as pointed out by the first party that the enquiry report is perverse. The fact that the charges are proved is sufficient to say that the management has taken action correctly and the first party has not convinced to the effect that the action of the management is disproportionate and too harsh.

14. Taking all this into consideration I am of the opinion that there is no merit in this reference and accordingly I proceed to pass the following order :

ORDER

The reference is rejected.

(Dictated to PA transcribed by her corrected and signed by me on 31st July 2001.)

V. N. KULKARNI, Presiding Officer

नई दिल्ली, 7 अगस्त, 2001

का.आ. 2247.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक आफ बड़ोदा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अथ न्यायालय भुवनेश्वर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 06-08-2001 को प्राप्त हुआ था।

[सं. एल-12013/49/98-आईआर (बी-II)]

सी. गंगाधरण, अवसर सचिव

New Delhi, the 7th August, 2001

S.O. 2247.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Bhubaneswar as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Bank of Baroda and their workman, which was received by the Central Government on 06-08-2001.

[No. L-12013 49/98-IR(B-II)]

c. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -
CUM-LABOUR COURT, BHUBANESWAR

PRESENT:

Shri S. K. Dhal, OSJS, (Sr. Branch),
Presiding Officer, C.G.I.T.-cum-Labour Court,
Bhubaneswar.

Tr. Industrial Dispute Case No. 229/2001

Dated, Bhubaneswar the 26th July, 2001

BETWEEN

The Management of Bank of Baroda,
Regional Office,
Plot No. 171,
Bhoum Nagar,
Unit-IV,
Bhubaneswar-751001.

.... 1st Party-Management

AND

The General Secretary,
Orissa State Bank of Baroda Employees Union,
Head-Quarter,
Bank of Baroda,
Buxi Bazar,
Cuttack.

.... 2nd Party-Union

BETWEEN

Shri S. Lakra,
Manager (Personnel)
Regional Office,
Bank of Baroda,
Bhubaneswar.

... For the 1st Party-Management
.... For the 2nd Party-Union

AWARD

The Government of India in the Ministry of Labour, in exercise of Powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following disputes for adjudication vide their Order No. L-12013/49/98-IR(B-II), dated 21-01-1999 :—

"Whether the action of the management of Bank of Baroda in abolishing the Post of Spl. Asst. at Berhampur Branch is legal and justified? If not, to what relief the affected workmen are entitled?"

2. While sending the reference intimation was also sent to the Union and to the Management to file their respective claim statements before this Tribunal within fifteen days from the date of receipt of the reference. The reference was made in the year 1999. Till today the Union has failed to attend in spite of receipt of notice from the Tribunal. No Claim statement has been filed by the Union. The absence and silence of the Union suggest that presently no dispute exists between the parties and the Union has got no cause of action. Hence, no dispute award is passed.

3. Reference is answered accordingly.

26-7-2001

S. K. DHAL, Presiding Officer

नई दिल्ली, 07 अगस्त, 2001

का.आ. 2248.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अथ न्यायालय लखनऊ के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 06-08-2001 को प्राप्त हुआ था।

[का.सं. एल-12011/218/2000-आईआर (बी-II)]

सी. गंगाधरण, अवसर सचिव

New Delhi, the 7th August, 2001

S.O. 2248—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Labour Court, Lucknow as shown in the annexure in the Industrial Dispute between the employer and

relation to the management of Punjab National Bank and their workman, which was received by the Central Government on 06-08-2001

[F. No. L-12011/218/2000-IR(B-II)]
C. GANGADHARAN, Under Secy

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

Presiding Officer, Rudresh Kumar

ADJUDICATION

I.D. No. 13/2001

Ref. No. L 12011/218, 2000-IR(B-II) Dated 16-1-2001

BETWEEN

The State President,
Punjab National Bank Employees Union (U.P.),
71-A Nazimbagh,
Lucknow.

AND

Regional Manager,
Punjab National Bank,
Regional Office,
B.K. Road,
Meerut (U.P.).

AWARD

By reference No. L-12011/218 2000-IR(B-II) dated 16-1-2001, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of the Act, 1947 (14 of 1947) made over this industrial dispute between State President, Punjab National Bank Employees Union, Lucknow and Regional Manager, Punjab National Bank, Meerut for adjudication. The reference is produced as under:

"Whether the action of the management of Punjab National Bank, Meerut in stoppage of four annual increments is legal and justified? If not, what relief the concerned workman is entitled to?"

Finding the reference vague and incomplete, a letter was sent to the Ministry to clarify the name of the workman who was penalized by stoppage of four annual increments. The Ministry vide corrigendum dt. 17/23-4-2001 revised the reference as follow:

"Whether the action of the management of Punjab National Bank, Meerut in imposing the penalty of stoppage of four annual increments upon Smt Rajani Vats, clerk/cashier is legal and justified? If not, what relief the concerned workman is entitled to?"

2 On registration of the case on 2-2-2001, registered notice was sent to the State President, Punjab National Bank Employees Union (U.P.) 71 A, Nazimbagh, Lucknow for filing claim statement. On having no response from him and on information that the State President is Mr. D. P. Verma residing at Chatbagh, a fresh registered notice was issued on 27-2-2001. There was no response even to this registered notice. Again, on 27-3-2001 this tribunal asked the Ministry to clarify the reference and send address of the State President Punjab National Bank Employees Union. The address communicated by the corrigendum dt. 17/23-4-2001 is the same which was earlier communicated by the original reference. Successive registered notices on 29-3-2001 and 17-5-2001 were issued without response. On 8-6-2001, the office was directed to send a registered notice to Smt Rajani Vats, whose cause has been espoused in this industrial dispute and a fresh notice was issued to enable her to pursue the union to file claim statement. Accordingly, a registered notice was sent on 12-6-2001 fixing 26-7-2001 at camp court Delhi with a view to enable Smt Rajani Vats to appear there as she, reportedly, is posted nearby. None appeared nor any application was filed on behalf of the workman or the aggrieved employee. The management filed a brief of the case on 26-7-2001 which is on record.

3 As no claim statement has been filed despite a number of registered notices sent in the past, it is evident that the union is not interested to pursue the case. Likewise, silence on the part of the aggrieved employee despite registered notices to her, gives the same indication. On the other hand, the management has filed brief history of the case giving inference that the punishment was imposed after due enquiry as per rules.

4. As no claim statement has been filed, it is not possible to adjudicate the dispute on merit. Accordingly, the reference is returned.

Award accordingly.

31-7-2001

RUDRESH KUMAR, Presiding Officer

नई दिल्ली, 7 अगस्त, 2001

का.आ. 2249.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कनरा बैंक के प्रबंधन के संबंधित नियोक्तों और उनके कर्मचारों के बीच, अनुवध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय बंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 06-08-2001 को प्राप्त हुआ था।

[फा.म. एल-12012/4/96-आई आर (बी-II)]

सी. गंगाधरण, अवसर सचिव

New Delhi, the 7th August, 2001

S.O. 2249.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Bangalore as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Canara Bank and their workman, which was received by the Central Government on 06-08-2001.

[F. No. L-12012/4/96-IR(B-II)]

C. GANGADHARAN, Under Secy..

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT

"SHRAM SADAN",

III MAIN, III CROSS, II PHASE, TUM-
KUR ROAD, YESHWANTHPUR,
BANGALORE

Dated : 30th July, 2001

PRESENT :

HON'BLE SHRI V. N. KULKARNI,
B.COM, LLB, PRESIDING OFFICER
CGIT-Cum-Labour Court, Bangalore

C.R. No. 222/97

I PARTY :

Shri Narayana Shetty,
Alape, Vijayanagar,
Padil Post,
Mangalore-575007,
(Advocate—Shri Ramesh Uplahyaya).

II PARTY :

The Chief Manager,
Canara Bank,
Bunder Branch,
Mangalore-575001,
(Advocate—Shri Ramesh Upadhyaya).

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12012/4/96-IR(B-II) dated 22-4-97 for adjudication on the following schedule :—

SCHEDULE

“Whether the Action of the Management of Canara Bank in refusing Employment to Shri Narayana Shetty is justified ? If not, to what relief the workman is entitled ?”

2. First Party was employed as a Sweeper with the Second Party. He was refused work and therefore, industrial dispute is raised.

3. Parties appeared and filed Claim Statement and Counter respectively.

4. The case of the first party in brief is as follows :—

5. According to the first party he was employed by the Bank as a Sweeper w.e.f. 2-5-1988 and he was discharging his duties honestly. He was paid wages every month and signature was obtained on vouchers by the Second Party. He was not given various benefits.

6. It is the further case of the first party that without any reasons the second party refused employment w.e.f. 21-11-1992. The

action of the management is not correct. He made several requests but nothing was done. First party for these reasons has prayed to allow the reference.

7. The case of the Second Party in brief is as under :—

8. The reference is not maintainable at all. The main contention of the second party is that whenever the permanent employees applied leave the bank used to take casual worker for that days work in the place parttime or permanent employee for cleaning, sweeping etc. The Second Party is a nationalised bank and the employment in the Second Party is governed by well settled recruitment policies and the person to be employed have to pass through those procedure. The first party was engaged intermittently on day to day basis on casual Sweeper whenever there was leave vacancy. Therefore, all the allegations made by the first party are not correct. The first party was paid wages only for the days engaged as per the policy of the bank. The first party was continued to be engaged even in 1993 as and when casual vacancy arised and therefore, the contention of the first party that he was refused employment w.e.f. 21-11-1992 is not correct.

9. It is the further case of the management that after 9-10-93 the first party himself has stopped coming to bank. The first party has not worked for 240 days at any time and all the allegations are not correct. Management for these reasons has prayed to reject the reference.

10. It is seen from the records that on behalf of the management MW1 is examined and against this workman is examined. Unfortunately the deposition of the workman is not signed by the Presiding Officer. Now we have the evidence of MW1.

11. According to the evidence of MW1 first party was not a regular employee. He also says that the first party has not worked 240 or more days in any given year. This type of work was also extended to some other persons as per Ex. M2. He is cross

examined by the first party. According to the evidence of MW1 no appointment letter was issued to the first party. Admittedly the second party is a nationalised bank and has its own recruitment rules. The first party has not filed any document to establish that he was appointed as a part time employee of the Bank. Absolutely there is no documentary evidence to say that the claim of the first party is correct. Considering all this I am of the opinion that there is no merit in this reference and accordingly I proceed to pass the following order :

ORDER

The reference is rejected.

(Dictated to PA transcribed by her corrected and signed by me on 30th July, 2001).

V. N. KULKARNI, Presiding Officer

नई दिल्ली, 07 अगस्त, 2001

का.आ. 2250.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केनरा बैंक के प्रबंधन के संबंध नियोक्तों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अस न्यायालय बेंगलूर के पचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 06-08-01 को प्राप्त हुआ था।

[फा.सं. एल-12012/129/94-आई आर (बी-II)]
सी गंगाधरन, अवसर सचिव

New Delhi, the 7th August, 2001

S.O. 2250.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Bangalore as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Canara Bank and their workman, which was received by the Central Government on 6-8-2001.

[F. No. L-12012/129/94-IR(B-II)]
C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BANGALORE

Dated : 30th July, 2001

PRESENT :

Hon'ble Shri V. N. Kulkarni B.Com. LLB,
Presiding Officer

CGIT-Cum-Labour Court, Bangalore

C.R. No. 64/94

I PARTY :

Shri Vijay S. Choudhary,

Co. DDBEA,

9, Corporation Building,

Broadway,

Hubli 580020,

(Advocate—Shri Ram Rao).

II PARTY :

Deputy General Manager,

Canara Bank,

Circle Office,

Balmatta Road,

Mangalore-575001,

(Advocate—Shri T. R. K. Prasad).

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12012/129/94-IR (B-II) dated 10th August, 1994 for adjudication on the following schedule :—

SCHEDULE

“Whether the action of the Management of Canara Bank, Mangalore in deleting the name of Shri Vijay S. Choudhary from the panel of daily wagers as a measure of penalty w.e.f. 8-2-90 is justified ? If not what relief is the workman entitled to ?”

2. First Party was working with the Second Party as Part Time Employee in the sub staff cadre. First party committed misconduct and charge sheet was given and

enquiry was conducted. On the basis of enquiry report his name was deleted and therefore, industrial dispute is raised.

3. Parties appeared and filed Claim Statement and Counter respectively.

4. The case of the first party in brief is as follows :

5. The first party joined the services of the second party as part time employee in the sub-staff cadre on half scale wages of the sub-staff, from 8-2-1986.

6. It is the further case of the first party that when he was working in the Branch, on 8-2-1990, in the evening the Branch Manager called him and asked him not to come for work from next day onwards. The action of the management is not correct. He made representations but nothing was done.

7. It is the further case of the first party that enquiry conducted by the management is not correct. For various reasons as stated in para 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18 the enquiry is not correct. No opportunity was given during enquiry. The action of the management in deleting the name is not correct. The first party has prayed to pass award in his favour.

8. The case of the Second party in brief is as follows :

9. The first party mis-represented while making reference and therefore the reference is not maintainable. In fact the action of the management deleting the name was communicated by the letter dated 11-12-90 and it is not covered under Section 2-A of the Industrial Dispute Act. The management has said in para 2 of the Counter that the reference is not maintainable the Panel of daily wagers is maintained districtwise as and when vacancies arises in sub-staff cadre, the daily wagers are absorbed according to seniority.

10. Regarding enquiry it is said that the same is correct and all the allegations are baseless. The first party instead of attending the enquiry went on sending letters saying that the enquiry should be conducted in terms of Bipartite Settlement. The management for these reasons and for various other reasons has prayed to reject the reference. The allegations were true.

11. It is seen from the records that on 10th August, 1999 memo was filed by the representative of the first party conceding the fairness of the enquiry. Thereafter matter was posted for arguments. Both parties have filed written arguments. I have also heard them.

12. It is clear that the first party has conceded the fairness of the Domestic Enquiry held against him. In view of this now we will have to see whether the enquiry report is correct or there is any perversity. We have to further see whether the punishment is not correct.

13. The first party having conceded the enquiry as fair and proper now first party cannot argue that the enquiry is not fair and full opportunity was not given to him.

14. From the written arguments of the first party it is seen that only allegations are made saying that no opportunity was given to the first party during enquiry. There is no merit in this arguments. Admittedly the first party was taken as daily wager. According to the management on 8-2-1990 the first party fraudulently and dishonestly committed an act of theft of cash of Rs. 1000 and he made confession before the Branch Manager. Even after this charge sheet issued and enquiry was held.

15. According to the finding of the Enquiry Officer, the first party was found guilty of misconduct. The first party has not convinced as to how the report of the Enquiry Officer is perverse. I have carefully perused all the papers and I am of the opinion that the allegations made by the first party are not correct.

16. The learned counsel for the Second Party has relied following decisions :—

- (i) 1995 (1) LLJ Kar P 233
- (ii) 1995 (1) LLJ DB Kar Page 1076
- (iii) 1994 LLR SC P 561
- (iv) AIR 2000 SC P 3129
- (v) AIR 1997 SC P 2661
- (vi) ILR 2001 Kar P 2650 DB
- (vii) 1996 Lab IC Page 2693
- (viii) 2000 (2) LLJ Kar P 1367 DB
- (ix) AIR 2000 SC P 3028.

17. Keeping in mind the principles held in the above decision and the fact that the first

party has not convinced that the enquiry report is perverse. I am of the opinion that this Tribunal has any discretion to say that the action of the management is illegal.

18. I have considered the entire material carefully and I am of the opinion that there is no merit in this reference. Accordingly I proceed to pass the following order.

ORDER

The reference is rejected.

(Dictated to PA transcribed by her corrected and signed by me on 30th July, 2001).

V. N. KULKARNI, Presiding Officer

नई दिल्ली, 07 अगस्त, 2001

का.आ. 2251.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल बैंक आफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 06-08-01 को प्राप्त हुआ था

[फा.सं. एल-12012/173/99-आई आर (बी-II)]
सी. गंगाधरण, अवसर सचिव

New Delhi, the 7th August, 2001

S.O. 2251.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Lucknow as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 06-08-2001.

[F. No. L-12012/173/99-IR(B-II)]
C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

Presiding Officer: Rudresh Kumar

ADJUDICATION

I.D. No. 21/99

Ref. No. 12012/173/99 IR(B-II)

Dated 11-11-99

BETWEEN

Asstt. General Secretary,
Central Bank of India Staff Association,
13/11, Shiv Colony,
Allahapur,
Allahabad.
(In the matter of Jai Ram)

AND

Regional Manager,
Central Bank of India,
Regional Office
Lanka,
Varanasi (U.P.)-221005.

AWARD

By reference No. L-12012/173/99-IR(B-II) dated 11-11-99, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of Sub-section (1) of Section 19 I.D. Act, 1947 (14 of 1947) made over this industrial dispute between Asstt. General Secretary, Central Bank of India Staff Association, Allahabad espousing cause of Jai Ram and Regional Manager, Central Bank of India, Varanasi for adjudication.

The reference is produced as under:

"Whether the action of the management of Central Bank of India in terminating/discontinuing the services of Jai Ram w.e.f. 6-2-98 is justified? If not, what relief the workman is entitled for?"

2. The representative union of the workman, Jai Ram, namely: Central Bank of India Staff Association through its General Secretary has sought relief, reinstatement of the workman Jai Ram in the services of the bank with full back wages and other consequential benefits; and ordering for his regularization in permanent service of the bank in terms of Government of India guidelines. The reference order, seeks adjudication on the legality of action of the management of the Central Bank of India in terminating/discontinuing the services of Jai Ram w.e.f. 6-2-98 and admissibility of relief to him. Thus the adjudication has to be confined within the scope of the reference and need not be enlarged as per prayer of the claim statement dated 29-12-99.

3. Jai Ram aged about 24 years, with educational qualification XII passed was engaged as daily wager w.e.f. 20-1-97. His daily wage was Rs. 10 per day which increased in due course to Rs. 15. He was locally engaged by the Branch Manager, Gopal Nagar branch, Distt. Ballia. Admittedly, his services were terminated w.e.f. 6-2-98 without any notice, notice pay or retrenchment compensation. According to the workman, he had rendered more than 240 days continuous service and his termination without complying with the provisions of Section 25-F is illegal and he is entitled to reinstatement with full back wages.

4. The management on the other hand has denied appointment of Jai Ram on the post of Peon (Sub staff) in regular or permanent cadre, but admitted his engagement on day to day basis. The management has not admitted that the workman continuously worked for more than 240 days in a calendar year on it committed breach of Section 25-F, 25-G and 25-H of the I.D. Act, 1947, as alleged. The averment made in the claim statement that Jai Ram was appointed as temporary peon is also denied in the written statement. It is pleaded that the post of Peon is filled by the management under a laid down procedure. The branch manager neither is, the appointing authority of the said post nor has the authority to appoint on the said post temporarily or otherwise. It is further pleaded that services of a daily wager commences in the morning and automatically ends at evening hours. It is also asserted that the work done by the workman was not of regular nature but of short term and intermittent nature.

5. Both the parties relied on documentary and oral evidence. The workman relied on Central Office circular No. CO-90.01-622 dated 12-3-1991 issued under the signature of Dy. General Manager (Personal). Beside representations made by the workman were also relied. The workman Jai Ram examined himself as a oral evidence to substantiate allegations made in his claim statement.

6. The management, to counter workman's version filed 39 vouchers showing actual payment for the days he worked. His working days on computation did not make out 240 days working to attract definition of 'continuous service' under Section 25-B, warranting benefits of Section 25-F I.D. Act. It has examined Shambu Nath Yadav, Branch Manager as a oral evidence.

7. During the course of hearing, the workman disputed bona fides of the management, in disclosing all payment vouchers and claimed joint inspection which was allowed. This tribunal directed the management to nominate one official to be present and assist in joint inspection. In compliance of the said order joint inspection was made and a joint report signed by the representative of the parties was submitted on 22-12-2000 which is proved (Ex-1). This joint inspection is signed holidays and he was paid Rs. 5010 towards his wages computed on admissible rates.

8. The authenticity and correctness of this report is not disputed by the parties. The A/R management concedes that recitals in this report should be given weightage over the facts given in the written statement and oral evidence, since it is based on physical verification of the records in presence of the parties and also as the parties did not question its correctness.

9. According to this report Ex-1 the workman, Jai Ram had worked for 273 days. On scrutiny the said working days were in a calendar year. It can be safely inferred that the workman served for more than 240 days (273) in a calendar year. As such, the workman was entitled to benefits of section 25-F before his termination.

10. It was emphasised by the management that the nature of work was not regular. The workman was engaged/appointed to discharge duties of a peon of the said branch for a short period from time to time as per exigencies. It is admitted that no peon was posted to cater various needs of the office and the customers. Even after his termination, other persons were engaged and they used to discharge same duties which the workman was doing. The joint inspection report mentions that one Jitan Ram was engaged after termination of services of the workman. This fact remains uncontroverted. The perusal of the report in light of the evidence tendered by the parties, it can be definitely said that the regular work was available at the branch to justify engagement of a full day workman. Jai Ram performed duties like a peon.

11. A/R management submitted further, that the services of Jai Ram were not terminated by the management at any point of time, but he left the job voluntarily. There is no material on record to warrant such inference. After his termination in 1998, the workman started running from pillar to post to obtain the job. There is no direct or circumstantial evidence on record, to give conclusion that the workman voluntarily left the job. The submission of the management is devoid of truth and is unacceptable.

12. It is not disputed that the workman was not paid any retrenchment compensation notice pay etc. as required under section 25-F of the ID. Act. His termination without providing benefits envisaged under section 25-F was unjustified and illegal. Thus, the workman, Jai Ram, is entitled to continuity on the job he served prior to his termination w.e.f. 6-2-98 with full back wages, revised from time to time and a cost of Rs. 1000 only.

13. Award accordingly.

Lucknow
1-8-2001.

RUDRESH KUMAR, Presiding Officer

नई दिल्ली, 7 अगस्त, 2001

का.अ. 2252—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में, केन्द्रीय सरकार केन्द्रा बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अथवा न्यायालय बेंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 06-08-2001 को प्राप्त हुआ था।

[फा सं एल-12012/185/93-आई आर (बी-II)]

सी. गंगाधरन, अवसर सचिव

New Delhi, the 7th August, 2001

S.O. 2252.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Bangalore as shown in the annexure in the Industrial Dispute between the employers in relation

2550 GI/2001—8

to the management of Canara Bank and their workman, which was received by the Central Government on 06-08-2001.

[F. No. L-12012/185/93-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT

"SHIRAM SADAN",

III MAIN, III CROSS, II PHASE, TUMKUR
ROAD, YESHWANTHPUR, BANGALORE

Dated : 31st July, 2001

PRESENT :

Hon'ble Shri V. N. Kulkarni, B.Com., LL.B.,
Presiding Officer.

CGIT-CUM-LABOUR COURT,
BANGALORE

C. R. NO. 11/94

I PARTY

Shri Gopal V. Joshi,
17, Indira Colony,
Hubli-580023
(Advocate—Shri N. G. Phadke)

II PARTY

The Deputy General Manager,
M/s. Canara Bank,
Circle Office, SS(W),
Light House Hill,
Mangalore-575001.
(Advocate—Shri T. R. K. Prasad).

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12012/185/93/IR(B-II) dated 3rd February, 1994 for adjudication on the following Schedule :

SCHEDULE

"Whether the management of Canara Bank is justified in dismissing Shri Gopal V. Joshi from service with effect from 16-4-1990? If not, to what relief, the workman is entitled?"

2. The first party joined the services of the second party as a Clerk on 7-10-1981. Charge sheet was issued for misconduct. Enquiry was held and on the basis of enquiry report he was dismissed. Therefore the dispute is raised.

3. Parties appeared and filed Claim Statement and Counter respectively.

4. The case of the first party in brief is as follows :

5. First party joined the services of the Second party as Clerk on 7-10-1981. Initially he was in Clearing Section of the second party at Bombay and thereafter he was transferred to Ranebennur Branch, Karnataka where he worked since 17-3-1986 with a clean and good service record. Several appreciation letters were given to him.

6. It is the further case of the first party that during the year 1989 charge sheet was issued making allegation of three charges. He denied the charges though he was advised to accept them. Enquiry Officer was appointed and enquiry was conducted. So far as enquiry is concerned number of allegations are made saying that the enquiry is not proper and fair. The enquiry suffers for the violation of principles of natural justice. Many other grounds are alleged so far as enquiry is concerned. The action of the management is not correct and therefore the first party has prayed to pass award in his favour.

7. The case of the second party in brief is as follows :

8. The reference is not maintainable because the dispute referred by the Government is beyond the scope and ambit of the government under section 10 of the Industrial Disputes Act. First party was dismissed from service by an order dated 30-3-90 and the action of the management is correct. The first party was working at Ranebennur Branch and committed certain acts of misappropriation of funds of the second party and tampered with records of the bank by misusing the official position in the bank. So far as enquiry is concerned it is said that the same is correct and full opportunity was given to the first party to defend himself and all the allegations therein are not correct.

9. The first charge is he gave a fraudulent fictitious credit of Rs. 30,000 to SB A/c 12404 maintained at Ranebennur Branch of one Mr. Desharath Thippanna Aurad, Railway Asstt. Station Master with narration as "By Clg. DD". He made alterations and insertions in SB ledgers as stated under charge No. 1 in the Counter. It is also alleged that he misappropriated Rs. 22,500/-. He also fraudulently and dishonestly gave a fictitious credit of Rs. 5200/- to SC A/c 11157 of one Mr. C. N. Kalledevir. He further misappropriated Rs. 1000/-. All the allegations were proved and the management has rightly dismissed the first party from service and there is no merit in this reference. The management for these reasons has prayed to reject the reference.

10. It is seen from the records that in order to prove the issue of domestic enquiry, management examined one witness, MW1.

11. It is seen from the records that this court by its order dated 3rd June 1999 has held that the enquiry is fair and proper and thereafter the matter was posted for arguments.

12. I have heard both sides in detail. I have perused all the relevant documents and the enquiry proceedings very carefully.

13. Now that the enquiry is held as fair and proper, we have to see whether the report submitted by the enquiry officer is correct or it is perverse. Further we have to see whether the punishment is proportionate or too harsh.

14. I have carefully scrutinised the enquiry papers, proceedings and the evidence but I am of the opinion that there is no direct evidence to connect the charges with the first party.

15. It is also clear from the records that the amount is reimbursed by the first party. It was argued by the learned counsel for the first party that in the instant case the enquiry report is perverse and the fact that the first party has reimbursed the amount, the punishment of dismissal is too harsh and not proportionate. In support of his argument he relied decision reported in 1989-(1)-LLJ-71=1989 Supp. (1) SCC 31. Against this it was argued by the learned Counsel for the Second Party, that the action of the management is correct and this tribunal has no scope to take any lenient view.

16. In support of this argument he relied following decisions :

- (i) 2000(2) LLJ SC Page No. 1395.
- (ii) 1995(1) LLJ Page 233 KAR.
- (iii) ILR 2001 Kar P 2650 DB.
- (iv) 1992(2) LLJ page 265 Kar DB.
- (v) 1993(2) CLR Page No. 1078 Bom.
- (vi) AIR 1997 SC P 2661.
- (vii) AIR 1997 SC page No. 252.
- (viii) JT 1998(9)SC 37.
- (ix) 1996 Lab IC Page 1056 SC.
- (x) 1995(1)LLJ Kar DB.
- (xi) 1999(2)LLJ P 171.
- (xii) 2001 Lab IC Kar DB P 1911.

17. I have read the above decisions very carefully. The facts of the case on hand are quite different from the facts of the above decisions. It is true that once the DE is held as fair and proper this Tribunal has limited scope but this tribunal on facts can consider whether the report is correct or there is any perversity.

18. I have already said that there is no direct material to connect the first party with the charges and the report is perverse. In view of this I am of the ends of justice will meet if he is reinstated without any back wages. Accordingly I proceed to pass the following order :

ORDER

The reference is partly allowed. The order of dismissal is set aside and the management is directed to reinstate the first party to his original post from the date of dismissal with continuity of service. But in the given circumstances no back wages are allowed and this will meet the ends of justice.

(Dictated to PA transcribed by her corrected and signed by me on 31st July, 2001).

V. N. KULKARNI, Presiding Officer

नई दिल्ली, 7 अगस्त 2001

का.सं. 2253.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधन के पदों नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 06-08-2001 को प्राप्त हुआ था।

[का.सं. एल-12012/208/97-आइएआर(बी-II)]

सी. गंगाधरण, अव्वर सचिव

New Delhi, the 7th August, 2001

S.O. 2253.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Bangalore as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Syndicate Bank and their workmen, which was received by the Central Government on 6-8-2001.

[F. No. L-12012/208/97-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT "SHRAM SADAN" III MAIN, III CROSS,
II PHASE, TUMKUR ROAD, YESHWANTHPUR,
BANGALORE

Dated : 31st July, 2001

PRESENT :

Hon'ble Shri V. N. Kulkarni, B.Com., LLB.,
Presiding Officer, CGIT-cum-Labour
Court, Bangalore.

C.R. No. 7/98

I PARTY :

Shri Sudhir G. Telang,
S/o G. S. Telang, Major,
11, Simu Park Road,
Bangalore-560 020
(Advocate—Shri N. S. Narasimha Swamy).

II PARTY :

The Dy. General Manager,
Syndicate Bank,
A* Syndicate Bank Building,
Gandhinagar,
Bangalore-560 009.
(Advocate—Sh. Pradeep S. Sawkar).

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12012/208 97-IR(B-II) dated 5th January, 1998 for adjudication on the following schedule :

SCHEDULE

"Whether the action of the management of Syndicate Bank in dismissing Shri Sudhir G. Telang, Clerk w.e.f. 31-8-94 is legal and justified? If not, to what relief the said workman is entitled?"

2. The first party was working with the second party. Charge sheet was issued and enquiry was conducted. On the basis of enquiry report first party was dismissed from service and, therefore, Industrial Dispute was raised.

3. Parties appeared and filed Claim Statement and Counter respectively.

4. The case of the first party in brief is as under :

5. First party joined the services of the Second party in the year 1969 and has worked in various offices to the best of his capacity.

6. It is the further case of the first party that the second party has a scheme of sanctioning loan for construction of house by an employee in service. The first party was one of the applicants and sought for housing loan and the same was sanctioned in the year 1991. He was further sanctioned an additional sum of Rs. 29,000 towards purchase of certain materials for the purpose of construction. He had negotiated for the purchase of a plot in Krishnarajapuram and he submitted all the documents to the Second Party and the bank is recovering every month a sum of Rs. 1,260 from his salary. The bank took this as misconduct. The first party had also introduced one Shri Lakshman. Shri Lakshman has taken loan from the bank and he had paid the loan amount. Charge sheet was issued and he submitted explanation. Enquiry was initiated. So far as enquiry is concerned no opportunity was given to the first party. The enquiry is not fair and proper.

7. It is the further case of the first party that the action of the management in dismissing the first party is nothing but unfair labour practice. Admittedly it is also clear case of victimisation. The first party has prayed to pass award in his favour.

8. The case of the Second Party in brief is as under :

9. It is true that the first party was working as Clerk w.e.f. 15-6-1985. Charge sheet was issued for gross misconduct. The enquiry is correct and

proper. Full opportunity was given and all the allegations made by the first party are not correct. Regarding Enquiry so many things are stated by the management contending that the enquiry is fair and proper.

10. It is the further case of the management that the first party was engaged as "acts prejudicial to the interests of the Bank" and it revealed that Sri Sudhir G. Tenlag did not utilise the amounts released under the Housing Loan sanctioned to him for purchase of the site/construction material. There was four charges against the first party and all the charges were proved.

11. It is the further case of the management that the action of the Second party is correct and allegations made by the first party are not correct.

12. It is seen from the records that on behalf of the Management MW1 was examined who conducted the enquiry against the first party. He is cross examined.

13. It is seen from the records that first party for the reasons best known to him has not examined himself at all.

14. It is seen from the records that this court by its order dated 19th June, 2001 held that the DE is fair and proper. Thereafter the matter was posted for arguments. First party remained absent since 4th April, continuously. Therefore, arguments of Second Party were heard and the matter was posted for award.

15. Now that the enquiry is held as fair and proper, the burden is on the first party to convince that the enquiry report is perverse and the punishment is too harsh.

16. It is seen from the records that, for the reasons best known to the first party he has not examined himself after the examination of MW1. It appears that the first party is not interested in this dispute and therefore, he has not given evidence and not argued the matter.

17. Now we have to consider the entire enquiry proceedings, evidence and documents before the enquiry officer. There is no perversity in the finding given by the Enquiry Officer. Charges are proved. I have already said that the first party has not convinced as to how the punishment is disproportionate.

18. Considering all this I am of the opinion that there is no merit in this reference and accordingly I proceed to pass the following Order :

ORDER

The reference is rejected.

(Dictated to PA transcribed by her corrected and signed by me on 31st July, 2001).

V. N. KULKARNI, Presiding Officer

नई दिल्ली, 9 अगस्त, 2001

का.आ. 2254.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रांग 17 के अनुसरण से, केन्द्रीय

सरकार यूको बैंक के प्रवर्धन के सबख निजीजको और उनके कर्मकारो के बीच, अन्तर्ध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अम न्यायालय, चंडीगढ़ के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार का 9-8-01 को प्राप्त हुआ था।

[सं. एन-12012/621/87-डी II (प.)]

सी. गंगधरण, अवर सचिव

New Delhi, the 9th August, 2001

S.O. 2254.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Chandigarh as shown in the annexure in the Industrial Dispute between the employers in relation to the management of UCO Bank and their workmen, which was received by the Central Government on 9-8-2001.

[No. L-12012/621/87-DII(A)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE SHRI B. L. JATAV, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH

Case No. ID 18/88

Shri Sukhdeo Singh C/o
Shri O. P. Mehta (AITUC),
Chowk Dolewal, Ludhiana. . . Workman.

Vs.

Divisional Manager,
UCO Bank, Sector-17,
Chandigarh.

APPEARANCES :

For the Workman : Shri O. P. Mehta.

For the Management : Shri N. K. Zakhmi.

AWARD

(Passed on 17-7-2001)

The Central Government vide Gazette Notification No L-12012/621/87-D.II(A) dated 22nd March, 1988 has referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of UCO Bank in terminating the services of Shri Sukhdeo Singh, Gunman, Ghurani Kalan, Branch, w.e.f. 25-9-86 is justified? If not, to what relief is the workman entitled?"

2. The claim of the workman in brief is that he has worked with UCO Bank, Ghurani Kalan Branch, District Ludhiana as a gunman for two years continuously @ Rs. 20 per day. His services were terminated by

the management w.e.f. 26-9-86 illegally and unlawfully without any notice, charge sheet or enquiry. The management did not follow the provisions of Section 25-F of the I.D. Act, 1947 in terminating his services. The workman served a notice of demand upon the management and also approached to Labour Authorities but the conciliation proceedings resulted in failure. Therefore, the management be directed to reinstatement him with continuity of service and full back wages. After his termination the workman remained unemployed and he could not get any job, so far.

3. The management has filed its written statement alleging that the workman is not a workman as defined in I.D. Act, 1947, therefore, no relationship of master and servant exists between workman and the management. This Tribunal has no jurisdiction to adjudicate upon the present reference. The workman was not employed by bank authorities. He was deployed by police authorities. Therefore, the present reference is not maintainable. The claim of the workman is belated which is apparently time barred.

4. On merits it has been pleaded by the management that the workman was never employed by the Bank as a gunman but he was appointed by the police authorities as a special police officer under the provisions of Police Act as per the decision taken at the meeting held on 27-3-1984 in Punjab Bhawan, Chandigarh. During that period the law and order situation in the State was not peaceful. The menace of terrorist was prevailing in those days. Keeping in view the security of the banking institutions, the ex-servicemen were appointed by the police authorities at the bank. The workman was also an ex-serviceman. He was an employee of police administration and his services were terminated by Station House Officer Shri Payal. His services and duties were governed under the provisions of Police Act. So the question of reinstatement with continuity of service with full back wages does not arise. After his disengagement, the workman did not remain unemployed. In the biggest industrial city where the employment is easily available. Under these circumstances the claim of the workman deserves to be dismissed with no relief.

5. The workman has submitted rejoinder and reasserted the facts pleaded in his claim statement.

6. In this case the engagement of the workman in the bank and his disengagement from the services of the bank are not disputed facts. The main issue for consideration is that the applicant is a workman or not under the provisions of Industrial Disputes Act, 1947.

7. The applicant workman has submitted his affidavit which is Ex. W1. He has deposed in his affidavit that he was appointed by the bank authorities on the post of gunman on daily wages and he worked there for more than two years. His services were terminated by the bank without giving any notice and charge sheet and without holding any departmental enquiry. The provisions of Section 25-F of the I.D. Act, 1947 were not complied with by the bank authorities. His services were terminated by the bank authorities illegally.

8. The management has filed affidavit of inspecting officer Shri D. K. Sanmotra which is Ex. M1. The management has also filed the document Ex. M2 to Ex. M5. The witness of the management has deposed that the law and order situation was worst during the said period and the workman was employed by police authorities as special police officer under the provisions of Section 17 of the Police Act. He was required for the protection and security of the bank property. He was not paid any salary but he was paid honorarium as fixed by police authorities. On perusal of the documents filed by the management, this Tribunal comes to the conclusion that the applicant is not the 'workman' under the definition given in I.D. Act, 1947. He was also not an employee of the bank. Ex. M2 is the copy of the application submitted by the workman to Station House Officer Shri Payal for his employment in the Branch of the Bank. His application was forwarded by the S.H.O. to the branch manager. Ex. M3 is the copy of the circular issued by Inspector General of Police (Crime), Punjab Government Chandigarh which was addressed to all the District Superintendent of Police of Punjab State, to make arrangements for the deployment of special police officer for the security of the banks. The copy of the Minutes of Meeting held on 27-3-1984 for making arrangements for security of the banks working in the State which has been exhibited as Ex. M5. In paragraph 3 it has been clearly mentioned that the gunman would be employed as a special police officer and they would not be deemed employees of the bank. Under these circumstances the workman can not be deemed a 'workman' under the provisions of Industrial Disputes Act, 1947.

9. Workman has admitted in his cross-examination that he was getting honorarium per day and the guards who were employed by the bank were getting salary and allowances as per rules of the bank. Any appointment letter was not issued by the bank. The police authorities used to check his duties while posting at the branch of the bank. His statement clearly indicates that he was not an employee of the bank. Therefore, the relationship of master and servant did not exist between the bank and the applicant workman. Under these circumstances, the provisions of Section 25-F are not applicable in this case.

10. The witness of the management has deposed in his cross-examination that the management did not retrench the applicant but he was withdrawn by the police authorities, when the law and order situation was found better by them. Therefore, the question of retrenchment of the applicant does not arise and his disengagement can not be treated as retrenchment or termination of his services. The disengagement of the workman can not be held unjustified in any way.

11. During the course of arguments the rep. of the workman has cited the cases of State Bank of India Vs. Shri N. Sundramony (AIR 1976 S.C. 1111), Workman of American Express Vs. the management of American Express (1986 Lab. I.C. 98 S.C.), the management of Standard Motors Vs. A. Parthasarthy and others (1986 Lab. I.C. 101 S.C.) and the case of Bal Kishan Vs. Presiding Officer, Labour Court, Panipat [1996 (3) S.C.T. P&H 548]. All these case

ANDEAURE

Case No. 15, Feb. 1991

Smt D. L. Sikka,
As General Secretary,
Haryana Bank Employees Federation,
Sector Bank of Fafuda,
Industrial Town, Ferozak.
Petitioner.

V₃.

Regional Manager,
Bank of Baroda,
G. I. Road,
Karnal. Response

P'ERKANELS.

For the Workman Name _____
For the Management Sign: Vijay Surkin _____

AWARD

(Issued on 7th July, 2001)

The Central Government, Ministry of Labour vide Notification No L-1201/3-590 TR B(II) dated 18th March 1991 has referred the following dispute to this Tribunal for adjudication:

Q. whether the management of Bank of Canada in relation to a Old Post Office Branch Rohtak in regarding the punishment/restoring the punishment at a forced by the civil rule makers Bank Limited in view of doing the increment from respective enact or Shri V C Sindhwani, Clerk, is 'justified, fair and legal' If not, what action the working concerned is entitled to and from what date?

2. None is put up appearance on behalf of the victim as the report of the workman placed no instructions. It appears that workman is not intended to put the workman's presence. The workman is not appearing for the last several days. In view of the above, the present reference is returned to the Appropriate Government for want of prosecution. The Government be advised.

Clonagh,
17-7-2001.

B L JAYAV, Presiding Officer

17 971 2001

71. 2256 --- भारत में विनाश की स्थिति, 1917
(1917 पृ. 11) यह वर्ष 17 के कारण है क्योंकि
यह वर्ष - इस - प्रमाण - का - एक - अच्छा - उदाहरण -
है कि कैसे बहुत कम समय में ही हमारे देश में

Crandigarh,
17-7-2001

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1947 के 11 मई को 7 मई को
 मन्त्रालय और आर्थिक विभाग के
 और - के कार्यों के लिए
 विभाग में फैली हुई समस्याओं को
 जटिल के लिए विभाग में
 का 9-8-2001

12/35, '90 - 11 11 11

New Delhi the 9th August, 2001

S.O. 2255—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Chandigarh as shown in the annexure to the Industrial Dispute between the employees in relation to the management of Bank of Punjab and their workman, which was received by the Central Government on 9-8-2001.

C. GANGADHARA, Under Secretary

[illegible]

FILED - 2012/06/06 - FT. WORTH, TEXAS

New Delhi, the 9th August, 2001

S.O. 2256—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Patna as shown in the annexure in the Industrial Dispute between the employers in relation to the management of UCO Bank and their workman, which was received by the Central Government on 9-8-2001.

[No. L-12012/66, 99-IP (E II)]

C. GANGADHARAN Under Sec.

ANNEXURE

BEFORE THE PRESIDING OFFICER
INDUSTRIAL TRIBUNAL, PATNA

Reference No 229 of 1999

Reference No. 3(-) of 2001

Management of UCO Bank, Maurya Lok Complex, Patna

AND

Their workman Shri Sudhama Prasad Saw

For the Management—Mr. P. K. Chatterjee, Representative, UCO Bank, Patna

For the Workman—Sri B. Prasad, State Secretary, UCO Bank Employees Association Bihar State Committee, Patna

PRESENT :

Sri S. K. Mishra, Presiding Officer, Industrial Tribunal, Patna.

AWARD

The 23rd July, 2001

The Central Government in exercise of the powers conferred by sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (No. 14 of 1947) and in exercise of the powers conferred by sub-section (1) of section 18 of the Industrial Disputes Act, 1947 (No. 14 of 1947) referred the following industrial dispute between the Management of the UCO Bank, Zonal Office, Patna Lok Complex, Patna and the workmen Sri Sudama Prasad Saw for adjudication to the Central Government Industrial Tribunal-cum-Labour Court No. II Dhanbad :—

"Whether Sri Sudama Prasad Saw worked from 1-1-1982 to 7-7-1980 with the Management of UCO Bank. If so, whether the action of the Management in terminating his service w.e.f. 7-7-1980 is justified? If not, to what relief the workman is entitled to?"

2. Subsequently by order No. I-12012/560-10 (R-I) dated 22-11-2000 the Central Government withdrew the proceedings of the said dispute from

Central Government Industrial Tribunal cum-Labour Court No. II, Mumbai, and presented it to this Tribunal for adjudication.

3. Both parties have filed their respective written statements. They have also filed their respective written arguments after the close of the hearing of the case. The claim of the workman as it appears from his written statement in brief is that he was orally appointed by the Management of UCO Bank at Belhar Branch to discharge the duties of a Peon on 1-1-1982. He worked upto 7-7-1989 continuously. The workman as usual went to perform his duties on 8-7-1989 when he was told that his services were no longer required. He worked from 9 A.M. to 5 P.M. on every working day and he discharged the duties of a regular Peon. Initially the workman was paid Rs. 5 per day as his wages which was gradually raised upto Rs. 20 per day. The workman had applied for empanelment for permanent absorption in terms with the settlement dated 12-10-1989 at the apex level. It is said that at the time of termination, the workman was neither given any notice nor any pay in lieu of notice nor any retrenchment compensation and thereby the provisions of Section 25F of the I.D. Act were violated. After termination the workman approached the Management for his reinstatement but without any result. At last the workman raised an industrial dispute before the Assistant Labour Commissioner (C), Patna who held several conciliation proceedings on different dates. The conciliation ended in failure due to stub-born attitude of the Management and the A.L.C. (C), Patna submitted his failure report before the Ministry of Labour, Government of India, New Delhi and ultimately the said Ministry has referred the industrial dispute to this Tribunal for adjudication. The action of the Management in terminating the services of the workman is illegal and unjustified on the following grounds:—

- (i) The Management violated the mandatory provisions of section 25F of the ID Act.
- (ii) The Management resorted to unfair labour practices while keeping the workman on tenterhook for over 7 years.
- (iii) The Management ignored the principles of 'equal pay for equal work' as per the provisions of Directive Principles of State Policy as contained in the Indian Constitution.
- (iv) The Management extracted the services of the workman on exploitative basis.
- (v) The Management violated its own settlement dated 12-10-1989.

4. According to the workman he is entitled to re-instatement with effect from 8-7-1909 with back wages, for regularisation of the service as a Peon in terms of the settlement dated 12-10-1909, for payment of due wages for the period of his working for regularisation of his service as per the provisions of Payment of Bonus Act and for payment of wages for Sundays and holidays.

5. The case of the Management as has been made out in its written statement in brief is that the workman had been engaged on a casual basis for perform-

ing certain contingent nature of work by the Manager of Belhar Branch of UCO Bank who had no authority to engage. The engagement was thus void ab-initio. Ever since nationalisation, the UCO Bank has become a State within the meaning of article 12 of the Constitution of India and is thus obliged to function within the parameter of article 14 and 16 of the Constitution in the matter of appointment. The procedure prescribed for appointment or engagement was not followed. There was no advertisement of any vacancy inviting applications from prospective candidates and Sri Sudama Prasad Saw had never applied for engagement before the Manager of Belhar Branch. The workman can not be reinstated to the illegal void engagement. There was no vacancy in the Branch and moreover the Reserve Bank of India had put a ban on recruitment of staff as per the letter dated 26-6-96. The ban continues as per the subsequent letter of R.B.I. dated 16-12-1997. The Bank has been incurring heavy losses since the last several years. The expenditure incurred over payment to unwanted and illegitimately engaged individuals comes to Rs. one crore approximately per year in Bihar alone. Since Sri Sudama Prasad Saw and many others had been illegally engaged a policy decision was taken to discontinue their engagement. On 29-3-1997 the Zonal Manager of the Bank directed that no engagement of casual workers except those who stand empanelled would be made by any Branch Manager/Office. It was made clear that the authorities disregarding any direction if engaged or continue the engagement of any casual worker will be personally responsible for such illegal engagement.

6. It is denied that Sri Sudama Prasad Saw was discharging the duties of a peon. Whatever was paid was in consideration of doing casual and contingent nature of job as prescribed by the Government. It is denied that the workman was maintaining a time schedule in attendance. It is further denied that the service of Sri Sudama Prasad Saw were terminated. Since according to the Management there was no appointment so the compliance of the provisions of section 25F did not arise in case of the workman. It is denied that the workman had applied for empanelment for permanent absorption in terms of the settlement dated 12-10-1989. The claim of the workman for reinstatement w.e.f. 8-7-1989 is very belated. Sri Saw was reportedly disengaged on 7-7-1989 and he kept silence and he never approached the Bank for a long period of about 9 years. Thus according to the Management the workman is not entitled to any relief.

7. A rejoinder to the written statement of the Management has also been filed on behalf of the workman reiterating the facts of the case as stated in his written statement. It is stated that once the dispute is referred to the Tribunal this Tribunal is required to adjudicate the reference within the conceptual frame work of the I.D. Act. The UCO Bank is an industry as per section 2(i). Sri Sudama Prasad Saw is a workman within the meaning of section 2(s) and his termination is covered u/s 2(oo) of the I.D. Act. The workman discharged all the duties of a peon for more than 240 days in a year preceding his retrenchment and hence his retrenchment without compliance of the requirement of section 25F of the I.D. Act is

illegal. The direction of the Bank for disengagement made in the year 1997 has no application since the workman was removed much earlier in the year 1989 even prior to signing of the settlement dated 12-10-1989 for absorption of casual workers. The Management being a public sector Bank and a State within the meaning of Article 12 of the Constitution but it did not act fairly with the workman.

8. The following issues arise for adjudication :—

- (i) Whether Sri Sudama Prasad Saw worked from 1-1-1982 to 7-7-1989 and if so, whether the action of the Management in terminating his service w.e.f. 8-7-1989 is justified?
- (ii) If not justified to what relief or reliefs is the workman entitled?

FINDINGS

Issue No. (1) :

9. Before I proceed to decide the Issue I would like to mention briefly the evidence, both oral and documentary, adduced by the parties in the case. The Management has not adduced any oral evidence. The workman has examined himself as W.W.1. In his evidence he has fully supported the facts of his case as detailed in his written statement. In his evidence he has said that he worked as a casual worker from 1-1-1982 to 7-7-1989 and performed the duties of a regular peon such as opening the lock of the Gate, unlocking the Almirahs, bringing out ledgers/scroll books, token books, tokens from Almirahs and placing them on the Tables, carrying the cash box from the strong room to the Cashier, going out from the Bank in connection with recovery of loan, carrying remittance from the Branch to Bhagalpur, visiting post office for posting and bringing mails, distribution of daks through Peon Books etc. He has said that after termination he had filed petitions before the Management for reinstatement. He had submitted such petitions before the Branch Manager, before the Regional office, before the Zonal office and also before the Head Office. He had also submitted petitions before the Management for absorption in the light of the settlement dated 12-10-1989. In cross-examination he has denied that after retrenchment he had taken up other employment and so he did not file any petition before any authority for reinstatement.

10. Both parties have filed xerox copies of certain documents which have been admitted into evidence on formal proof having been waived by each other. At first I would like to mention the documents exhibited on behalf of the Management. Ext. M is the xerox copy of the letter from the Reserve Bank of India dated 16-12-1997 stating therein that the earlier restrictions for fresh recruitment of staff including for replacement of retirements, resignation etc. would continue except recruitment of specialised Probationary Officers with the prior approval of R.B. I/GOI. Ext. M/1 is the xerox copy of the circular of the Bank dated 29-12-1988 relating to the procedure to be followed for recruitment to the posts in subordinate cadres. It has been filed by the Manage-

ment to show that the procedure for recruitment was not followed while engaging the concerned workman. Ext. M/2 is the xerox copy of the order of the Calcutta High Court dated 4-8-1999 passed in W.P. No. 1390 of 1990. It was a writ petition for absorption of the remaining empanelled daily wages workers in the vacancies of the subordinate staff in pursuant to the agreement dated 12-10-1989 made between the Management of the UCO Bank and the Unions. This order shows that under the said settlement between the Management and unions the casual workers working continuously 240 days or more in the subordinate cadre during the period of three years immediately preceding the settlement were to be absorbed in the permanent vacancies. The casual workers entitled for being absorbed in terms of the said settlement were empanelled for such absorption in vacancies as and when arose. The order further shows that altogether 460 casual workers were empanelled for absorption out of whom only 69 casual workers could be absorbed. Some of the remaining empanelled workers filed the writ petition before the Calcutta High Court stating therein that though there were vacancies they were not being absorbed. The Hon'ble Calcutta High Court ordered that the Bank authorities should consider the case of the petitioners and shall absorb the rest of the casual workers as and when restriction for appointment by the R.B.I. was lifted.

11. As regards the documents filed on behalf of the workman Ext. W is the circular of the Bank dated 19-10-1989 which was issued in terms of the settlement between the Management of the Bank and three unions of the workmen at the apex level. The said settlement was signed on 12-10-1989. According to the said settlement and the circular the persons who had been engaged as casual workers for full days work and who had been discharging any of the normal duties in the Bank in the subordinate cadre as casual workers for a period of 240 days or more during the period of three years immediately preceding the settlement would be eligible for absorption. It was, however, made clear that those who had been engaged as Water Boy on daily wage would not be eligible for being considered for absorption under the settlement. Exts. W/1 and W/2 are said to be the xerox copies of applications which the concerned workman had submitted in prescribed proforma for absorption in the light of the said settlement and circular. Ext. W/3 series are the xerox copies of the applications which the workman claims to have submitted before the authorities from time to time for reinstatement after his termination. Ext. W/4 and Ext. W/4-1 are xerox copies of the registration postal receipts. Ext. W/5 is the xerox copy of the petition of the workman addressed to the A.L.C.(C), Patna raising the present industrial dispute. Ext. W/6 is the xerox copy of the reply from the Branch Manager, Belhar Branch dated 20-4-1998 to the letter of the workman dated 30-3-1998. Ext. W/7 is the xerox copy of the letter of the workman dated 30-4-1998 addressed to the Branch Manager, Belhar Branch.

2550 GI, 2001—9

12. It may here be noted that on 18th April, 2001 an affidavit petition was filed on behalf of the workman for a direction to the Management to produce the details of work (date-wise, month-wise and year-wise) along with payments made to the workman from 1-1-1982 to 7-7-1989. Accordingly a direction was made to the Management to produce in this Tribunal the required information vide order sheet dated 18-4-2001. In compliance with the same direction of this Tribunal the Management filed a statement showing the details of work date-wise and payments made to the workman. The said statement has been used by the workman and has been marked Ext. W/8. The Management also filed a separate petition regarding the work of the concerned workman month-wise and year-wise beginning from January, 1982 to July, 1989. This petition has been used by the workman and has been marked Ext. W/9.

13. The fact that the concerned workman Sri Sudama Pd. Saw worked in the Belhar Branch of the UCO Bank from 1-1-1982 to 7-7-1989 has not been disputed. The statement submitted by the Management in compliance to the requisition made on behalf of the workman clearly prove that the workman worked in Belhar Branch as a casual worker from January, 1982 to July, 1989 vides Exts. W/8 and W/9. These statements further proved that Sri Saw worked more than 240 days in 12 calendar months preceding the termination of his service. It is not denied that at the time of termination the requirement of section 25F regarding one month's notice or payment of one month's salary in lieu of notice or retrenchment compensation was not complied. It was submitted on behalf of the Management that as Sri Saw had never been formerly appointed and his services were not terminated there was no requirement of compliance of the provisions of section 25F of the I.D. Act but it is well settled law that for the applicability of the provisions of section 25F of the I.D. Act there need not be any formal letter of appointment or formal order in writing of termination. Termination effected not by any voluntary order will also come within the meaning of the retrenchment u/s. 2(oo) of the I.D. Act (1994-P.L.J.R. page 612). The plea of the Management that the Branch Manager who had engaged Sri Saw had no authority to make such engagement or that the procedure prescribed for recruitment to sub-staff was not followed while engaging Sri Saw and that since Sri Saw had been engaged illegally and unauthorisedly he cannot be reinstated to such illegal appointment cannot be of any avail to the Management. It is now well settled law that the provisions of section 25F are applicable even to a daily rated workman who had continuously served for 240 days in a year (1997) 11 S.C. cases page 396—Rattan Singh Vs. Union of India and another). A daily rated workman who has completed service for 240 days within the meaning of sec. 25-B, cannot be terminated from service on the ground of even misconduct without a departmental enquiry or without complying the provisions of S 25F of the I.D. Act [(1994)(2) P.L.J.R. page 669, A.I.R. 1994 S.C. page 1638]. Service terminated in violation of section 25F of the I.D. Act the order of termination is rendered ab-initio void and an employee is entitled to continuity of service with full back wages [1989 S.C. cases (L&S) page 565—Navotam Chopra Vs. Presiding Officer,

Labour Court and others]. Termination of employment on the ground of appointment being illegal will itself qualify as retrenchment within the meaning of section 2(oo) of the I.D. Act. The idea of illegal or invalid appointment is quite foreign to the scheme of the I.D. Act. Section 2(s) of the I.D. Act which defines 'workman' does not have any such distinction [1994(2) P.L.J.R. page 240 Mithlesh Kumar Singh Vs. State of Bihar].

14. In the present case as Sri Saw worked more than 240 days in 12 calendar months preceding his retrenchment and as the provisions of section 25F of the I.D. Act were not complied with at the time of termination, I have no hesitation to hold that the action of the management of UCO Bank, Patna in terminating the service of Sri Sudama Prasad Saw was not justified. I also find that Sri Saw worked from 1-1-1982 to 7-7-1989 before his termination almost continuously. The issue no (i) is accordingly decided and answered.

Issue no. (ii) :

15. As has been held by the Hon'ble Supreme Court in Navotam Chopra case referred earlier if the service of a workman is terminated in violation of section 25F of the I.D. Act the order of termination being ab-initio void the employee ordinarily will be entitled to continuity of service with full payment of back wages. It was submitted on behalf of the Management that no industrial dispute was raised by the workman as long as about nine years after termination of the service. But it is well settled fact that the law of limitation is not applicable to the cases under the I.D. Act. The Hon'ble Supreme Court in a case reported in 1999 (6) S.C. cases page 82, 1999 Lab. I.C. Page 1435 that the delay in seeking reference unless coupled with proof of real prejudice to the Employer is not sufficient to deny relief to the workman. Even in cases of proved delay relief can be moulded by declining whole or part of back wages. Sri B. Prasad representative of the workman in course of argument submitted that in view of the inordinate delay in making the present Reference the workman has no objection if back wages are paid to him only with effect from 1-1-1997. The demand of the workman for payment of back wages w.e.f. 1-1-1997 appears to be reasonable.

16. It may here further be noted that as per the statements submitted by the Management (Ext. W/8 and Ext. W/9) the workman completed work for more than 240 days during the period of three years immediately preceding the settlement dated 12-10-89 (Ext. W). It was however submitted on behalf of the Management that the provision of the settlement will not be applicable to the present workman since he did not discharge any of the normal duties of a peon. According to the Management Sri Saw performed the duties of contingent nature like supplying water, tea etc. The Management has not however examined any witness to show that Sri Saw was not discharging the duties of a regular Peon. The workman in his evidence has claimed that he was working in the Branch from 9 A.M. to 5.30 P.M. on every working day and he used to discharge the duties of a regular Peon. I have no reason to disbelieve his evidence. Thus I find that Sri Sudama Prasad Saw is also entitled for empanelment

for absorption in terms of the settlement and circular of the Bank (Ext. W).

17. In the light of my above discussions I hold that Sri Sudama Prasad Saw is entitled to be reinstated in service w.e.f. 8-7-1989 but he will not be entitled for payment of back wages till December, 1996. He is entitled for payment of full back wages w.e.f. 1-1-1997. He is also entitled to be empanelled as casual worker for absorption in permanent post of the subordinate cadre as and when vacancy will arise and after restriction regarding recruitment of any staff by the R.B.I. is lifted. Accordingly the Reference is answered. Let the Management implement the Award within the period of 30 days from the date of the publication of the Award.

18. This is my award.

S. K. MISHRA, Presiding Officer

नई दिल्ली, 9 अगस्त, 2001

का.आ. 2257.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधक के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चंडीगढ़ के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-8-01 को प्राप्त हुआ था।

[सं. एल-12012/101/88-डी II (ए)]
श्री गंगाधरान, अवर सचिव

New Delhi, the 9th August, 2001

S.O. 2257.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Chandigarh as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 9-8-2001.

[No. L-12012/101/88-D-II(A)]
C. GANGADHARAN, Under Secy.
ANNEXURE

BEFORE SHRI B.I. JATAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, CHANDIGARH

Case No. ID 45/88

Roop Chand C/o
General Secretary,
Central Bank of India Employees Union,
129, Lal Kurti,
Ambala Cantt., Haryana. Workman/Union.

Versus

The Regional Manager,
Central Bank of India,
Chandigarh.

APPEARANCES :

For the workman : Shri B.S. Gill.

For the management : Shri Shammi Kaplish.

AWARD

(Passed on 5th of July 2001)

The Central Government vide gazette notification No. L-12012/101/88-D-2(a) dated 14th of July 1988 has referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of Central Bank of India in dismissing Shri Roop Chand is justified? If not, to what relief the concerned workman is entitled to?"

2. The case of the workman in brief is that he was initially appointed in the bank as subordinate staff on 14-3-1970 at Branch Office Patiala and he was promoted from sub staff to clerical cadre on 15-9-1983 and was posted at Branch Office Gidarbaha. He was again transferred to branch office Rajpura Township at his request. He was suspended vide letter dt. 5-11-1985 relating to the alleged misconduct committed during the year 1983 at branch office Patiala. After that the charge sheet was given to the workman. The workman admitted the charges with the intention to get the benefit of clause 19 : 12 (c) of Bipartite Settlement governing the service conditions of the workman. In this clause it has been provided that if delinquent admits the charge of misconduct he should not be punished with the penalty of dismissal or discharge. Workman admitted the charges levelled against him during the course of departmental enquiry on the advice of the disciplinary authority. The enquiry was conducted by the enquiry officer and held him guilty of the misconduct. The disciplinary authority had inflicted the punishment of dismissal upon the workman. He requested to the disciplinary authority to take lenient view in the matter of punishment during the course of personal hearing but disciplinary authority did not consider his request and punished him with the penalty of dismissal ignoring the clause 19 : 12(e) of Bipartite Settlement. He submitted an appeal to appellate authority to set aside the dismissal order but his appeal was dismissed. Thereafter, he submitted mercy appeal which was also dismissed by the management.

3. It has been pleaded in the claim statement that the action of the management in dismissing the workman is contrary to the terms of Bipartite Settlement. The punishment inflicted is harsh and disproportionate to the alleged misconduct keeping in view the admission of the workman. Therefore, the dismissal order deserves to be set aside and the management be directed to reinstate him with back wages and continuity of service.

4. The management has filed its written statement alleging that the workman was directed to deposit an amount of Rs. 778.02 paise on 17-8-1983, while he was working as sub-staff at branch office Adalat Bazar Patiala, against a telephone bill dated 11-8-1983. The said amount was not deposited on that day because the G.P.O. was to close its functioning at 2 P.M. Therefore, the workman undertook to deposit the same on 19-8-1983. On enquiry the workman informed the bank authorities that he had deposited the amount on 18-8-1983. He was advised to produce the receipt in token of his having deposited the amount. He did not furnish the receipt. On 10-4-1985, he came to the branch office and told a concocted story that he had asked his friend to deposit the amount of the bill but he had not deposited the same with G.P.O. As such the amount of bill which he had taken from the bank be ordered to be deposited in the bank. Taking into consideration the facts and circumstances, it was self evident that the workman had mala fide intentions from the very beginning and he had misappropriated the amount to the prejudice of the bank. Thus he had committed the offence of breach of trust and committed misconduct amounting to loss of confidence in the employer. The workman deposited the amount during the month of April 1985 after a gap of one year and 8 months, which deserved disciplinary action to be taken against the workman.

5. The departmental enquiry was initiated and the charge sheet was given to the workman. He voluntarily admitted the charges during the course of enquiry proceedings. The enquiry officer, after having considered all pros and cons of admission arrived to the conclusion that the workman had committed the alleged misconduct and he held the workman guilty of misappropriation of public money. The disciplinary authority issued show cause notice proposing the penalty

of dismissal or discharge. Opportunity of personal hearing was given to the workman. After considering the facts and circumstances of the case, the order of dismissal was passed by the disciplinary authority. The workman filed, appeal and mercy appeal to higher authorities of the bank which were dismissed by the bank. The workman had admitted the charges of misconduct voluntarily. Therefore, it was within the discretion of the management to impose the penalty of dismissal or lesser punishment taking into consideration the fact and circumstances relating to the misconduct. The management has not acted contrary to the provisions of clause 19 : 12(e) of Bipartite Settlement. The workman had admitted his guilt, therefore, the presenting officer did not adduce any evidence against the workman. Therefore, the enquiry officer had not committed any irregularity in closing the enquiry proceedings, after voluntary admission of the workman. Workman is not entitled to be reinstated with back wages and continuity of service. His claim deserves to be dismissed without granting any relief.

6. The workman has filed rejoinder reasserting the facts pleaded in the claim statement.

7. In this case all the facts are admitted facts except the penalty of dismissal exercising the discretion under clause 19 : 12(e) of Bipartite Settlement by the management.

8. The workman has submitted his affidavit Ex. W1 and the affidavit of General Secretary of the Union Shri Mangat Ram which is Ex. W2. The workman has also produced documents which have been exhibited as Ex. W3 to W4. The management has submitted the affidavit of Shri R.P. Singh which is Ex. M1. The management has also relied on the documents exhibited as Ex. M2 to Ex. M7. The workman has been cross-examined by the representative of the management. The workman has admitted all the facts in his cross-examination relating to the misconduct and condition of departmental enquiry. Therefore, the narration of the facts is not necessary in my opinion. The witness of the management has been cross-examined by the rep. of the workman but nothing has come on record to disbelieve this witness. Now the question arises for consideration as to whether the disciplinary authority has exercised his discretion properly under clause 19 : 12(e) of Bipartite Settlement. The workman has also challenged the action of the management in the matter of punishment under this provisions also, and he has requested the tribunal to exercise its discretion under Section 11-A of the I.D. Act 1947.

9. As per clause 19 : 12(e), an enquiry need not be held if, employee makes a voluntary admission of his guilt in his reply to the show cause notice of the proposed punishment. If the management, does not intends to award the punishment of discharge or dismissal, if the misconduct is proved, the enquiry need not to be held against the delinquent. When the charge sheet was issued to the workman and he attended the enquiry and he admitted his guilt voluntarily the clause 19 : 12(e) was attracted in the matter of punishment and further continuance of the departmental enquiry. If the management wanted to punish him with the penalty of dismissal the departmental enquiry must have been held by the management. The workman in this case was given the memo of the proposed punishment which is Ex. W7. The order of punishment dated 4-4-1986 is Ex. W9. On perusal of punishment order it is evident that the workman had requested the disciplinary authority in reply to the notice of the proposed punishment (Ex. W7) that under clause 19 : 12(e) of Bipartite Settlement the penalty of dismissal should not have been imposed upon him. But the disciplinary authority considered to dismiss the workman taking into consideration the admission of the workman. Under these circumstances as per clause 19 : 12(e), the enquiry must have been opened by the management and the evidence must have been adduced by the presenting officer to meet the principle of natural justice and to give effect to the provisions of Bipartite Settlement. The facts and gravity of the misconduct committed by the workman is also not so grave which require the penalty dismissal. The penalty of dismissal is disproportionate to the misconduct committed by the workman. Therefore, the workman is entitled to be reinstated instead of facing the punishment of dismissal. Under Section 11-A this Tribunal is empowered to substitute lesser punishment to meet the ends of justice and to give effect to the provisions of Bipartite Settlement. The substitute punishment should be with holding of two annual increment, with cumulative effect. If the workman had not been dismissed from service

he would have got the monthly salary from the date of his dismissal. Therefore, he is entitled to get the back wages. But the workman has not pleaded in his claim statement and has not deposed in his affidavit that he remained unemployed after his dismissal. Therefore, he is only entitled to get the 50 per cent of the back wages with continuity of service.

10. Taking into consideration the facts and circumstances of the case and clause 19 : 12(e) of Bipartite settlement, the punishment of dismissal is contrary to the Bipartite Settlement. Therefore, the action of the management in dismissing the workman can not be held justified. Therefore, the reference is answered that the action taken by the management of Central Bank of India in dismissing the workman is not justified. Consequently, the punishment of dismissal is set aside and the punishment of withholding of two annual increments with cumulative effect is substituted by exercising the powers conferred U/S 11-A of the I.D. Act 1947. The management is directed to reinstate the workman on the date of his dismissal from service with continuity of service. The workman shall be entitled to get 50 per cent of the back wages. Both parties shall bear their own costs of the proceedings. Appropriate Government be informed.

Chandigarh.

5-7-2001.

B. L. JATAV, Presiding Officer

नई दिल्ली, 1 अगस्त, 2001

का.अ. 2258—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. 21 धनबाद के पचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-8-2001 को प्राप्त हुआ था।

[स. एल-20012/104/92-आई आर (सी-1)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 1st August, 2001

S.O. 2258.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 2, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 1-8-2001.

[No. L-20012/104/92-IR(C-I)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2) AT
DHANBAD

PRESENT :

Shri B. Biswas, Presiding Officer.

In the matter of an Industrial Dispute under
Section 10(1)(d) of the I.D. Act, 1947.

Reference No. 24 of 1993

PARTIES :

Employers in relation to the management of
Gopalichak Colliery of M/s. BCCL and
their workman.

APPEARANCES:

On behalf of the workman : Shri S. C. Gaur,
Advocate.

On behalf of the employers : Shri H. Nath,
Advocate.

STATE : Jharkhand.

INDUSTRY : Coal.

Dated, Dhanbad, the 23rd July, 2001

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/104/92-I.R. (Coal. I), dated the 22nd March, 1993.

SCHEDULE

"Whether the action of the management of Gopalichak Colliery of BCCL in not granting one increment at the time of his promotion to the post of Mining Sirdar to Shri Ramu Barhi is justified? If not, to what relief the workman is entitled?"

2. The facts of the case of the concerned workman as per W.S. in brief is as follows :—The concerned workman in his W.S. submitted that being Linc Mistry he diligently discharged his duties to the satisfaction of the management and thereafter he acquired necessary qualification to work as Mining Sirdar in 1982. The concerned workman submitted that he was put to work as Mining Sirdar with effect from 16-2-83 for which proper authorisation was given to him for working as Mining Sirdar at No. 9 Seam (No. 1 pit of Gopalichak But his case along with 5 other persons were considered by the D.P.C. in May, 1983 for which a proper office order by D.P. of Bhagaband Area was issued vide Memo No. A-VII/PER/EST/promotion-M/Sirdar/83/663 dated 4th May, 1983. It has been submitted by the concerned workman that according to the promotional policy the promotees are to be given the benefit of one increment in the promoted scale at the time of promotion over the wage which the promote was getting before his promotion. But in his case the management did not follow that principles. He submitted that before promotion he used to receive Rs. 29.70 P. per day which on conversion on monthly scale comes to Rs. 772.20. He submitted that if one increment in that case due to his promotion is given in that case his wages would come to Rs. 812.20 P. but as there was no fitment his basic pay in that case would be Rs. 822.00 Per month i.e. next stage of pay after fixation. But the management ignoring the principles of promotional policy fixed his basic pay to Rs. 782.00 per month and for which he since the date of promotion is losing Rs. 40 per month which he is very much legally entitled to get. The concerned workman further submitted that under BCCL as per existing instruction when a person acquires higher qualification he is given one extra increment as sort of incentive but the concerned workman was not provided with any such extra increment by the management. It has been submitted by the concerned workman that the

management has arbitrarily and illegally fixed his scale of pay @Rs. 782 instead of Rs. 822 Accordingly he submitted his prayer for his relief of getting of one additional increment with fixation of pay of Rs. 822 per month.

3. The management on the contrary after filing W.S. has denied all the claims and allegations which the concerned workman asserted in his W.S. The management in the W.S. submitted that the concerned workman was a Line Mistry in Cat. IV of NCWA-III and was getting a basic salary of Rs. 29.70 P. in the pay scale of Rs. 24.10-0.80-35.30 and his monthly basic pay was Rs. 772.20. The management further submitted that as the concerned workman obtained Mining Sirdarship certificate from the D.G.M.S. Dhanbad he was regularised as Mining Sirdar vide Order dt. 4-5-83. It has been further submitted that the word "Promotion" used in the promotion order is nothing but a misnomer and has been erroneously used. They submitted that the Line Mistry and Mining Sirdarship are two different cadres and one belong to E & M Discipline and other belongs to Mining Supervisory Personnel. So in the real terms the case of the concerned workman is the case of regularisation and not promotion and for which the claim of extra increment had no footing. The management further submitted that Miner/Loaders are piece rated workers and in any case they cannot be granted one extra increment because they are not in the time scale. Accordingly in such cases monthly wages are calculated and their basic wages is fixed in the regularised category at the proper slab of the pay scale. While doing so it is ensured that they do not get less than what they have been getting prior to their regularisation. The concerned workman was given a basic of Rs. 782 per month in the pay scale of Rs. 742-1422 of Mining Sirdar which was more than what he was getting. The management further submitted that they did not commit any illegality and impropriety in fixing the pay scale of the concerned workman after regularising of his service as Mining Sirdar and accordingly they submitted their prayer to pass an Award to the effect that not granting of one increment at the time of regularisation of the concerned workman to the post of Mining Sirdar was illegal and arbitrary.

4. The points for decision in this reference are:—

"Whether the action of the management of Gopalchuck Colliery of BCCL in not granting one increment at the time of his promotion to the post of Mining Sirdar to Shri Ramu Parhi is justified? If not, to what relief the workman is entitled?"

DECISIONS WITH REASONS

5. The concerned workman in order to substantiate his claim examined himself as WW-1 in the instant case, while the management also examined one witness in support of their claim. There is no dispute to hold that the concerned workman was a Line Mistry before he passed the Mining Sirdarship examination under D.G.M.S. Dhanbad. It is also admitted fact that after obtaining Mining Sirdarship certificate he was allowed to work as Mining Sirdar in view of the order issued by the Management dt. 4-5-83 in

the scale of Rs. 572-29-704-34-1008. The concerned workman admitted that after getting that order he joined to his new post in the month of May, 1983. It is the specific contention of the concerned workman that according to the norms of the management when an employee gets his promotion he is entitled to get one additional increment. Disclosing this fact he submitted that in his case though he was promoted to the post of Mining Sirdar from Line Mistry the management ignored this principle and as a result he has sustained financial loss. He submitted that before promotion his daily wages was Rs. 29.70P. i.e. Rs. 772.20 P. month. He submitted that after getting promotion according to the promotional policy he is entitled to one additional increment and in such case his pay would be fixed @ Rs. 812.20P. but as there was not fitment there his basic pay was to be Rs. 822.00 per month. The management intentionally instead of fixing his pay in Rs. 822 per month fixed his pay Rs. 782 per month and as a result of which he is facing loss of Rs. 40 per month. On the contrary it has been submitted by the management that the management does not follow any promotional policy in the matter of giving any additional increment when any employee is promoted to higher scale. Apart from this fact the management further submitted that the concerned workman was piece rated employee with daily wages of Rs. 29.70 P. before getting his promotion as Mining Sirdar. The management further submitted that there was no fixed pay scale of piece rated worker while Mining Sirdar has its fixed scale. Disclosing this fact learned Advocate for the management further submitted that piece rated worker cannot be granted one extra increment when their services are regularised to time scale. Considering the evidence of both sides and considering submission of Learned Advocate of both sides it is clear that the concerned workman before getting his job as Mining Sirdar was a piece rated worker. It is also clear from their submission that piece rated workers have no fixed time scale. Actually their monthly emoluments are calculated on the basis of daily wages multiplied by number of working days they work. It is the specific contention of the management that regularisation of service as Mining Sirdar from piece rated worker cannot be considered as promotion though Learned Advocate admitted that in the appointment letter due to inadvertent mistake the word "Promotion" was written. Learned Advocate for the concerned workman submitted that when the management did not recall the word "Promotion" from the appointment letter issued in favour of the concerned workman it should be considered that the concerned workman was promoted to Mining Sirdar from piece rated worker. I after careful consideration of all the facts and circumstances find no cogent ground to uphold the contention of the learned Advocate for the concerned workman. It is clear that the status of piece rated worker and time scale worker are quite different. The piece rated worker has no fixed pay scale. Their emoluments are assessed on the basis of daily wages multiplied by the number of days work while in the case of time scale the workers enjoy specific pay scale. It has been submitted by the learned Advocate for the concerned workman that according to the promotional policy the concerned workman was entitled to get one increment but in course of hearing learned Advocate for

the concerned workman has failed to produce a single scrap of paper to show that the management had specific promotional policy relying on which a time rated worker by virtue of regularisation of service enjoys fixed pay scale and is entitled to get additional increment. Learned Advocate for the management submitted that while the concerned workman was in time rated job his monthly wage was Rs. 722 but after regularisation of service into regular pay scale his pay was fixed to Rs. 782 i.e. next higher stage of increment. Therefore, the management did not commit any illegality and impropriety in fixing the pay scale of the concerned workman to Rs. 782 per month in the pay scale of Rs. 572-1008.

6. I have considered all aspects carefully and after careful consideration I have failed to find out any illegality and impropriety in fixing the pay scale of the concerned workman to Rs. 772 per month. As the concerned workman has failed to produce any cogent paper to show that piece rated workers are entitled to get one additional increment when his service is regularised to time rated scale I hold that the claim of the concerned workman for his additional increment finds no basis at all. As such there is no scope to say that the management has violated the principles of natural justice in refusing one additional increment to the concerned workman while his service was regularised in the said pay scale of Rs. 572-1008. In the result, the following Award is rendered:

"The action of the management of Gopalchuk Colliery of BCCL in not granting one increment at the time of his promotion to the post of Mining Sirdar to Shri Ramu Barhi is justified. Consequently, the concerned workman is not entitled to any relief."

B. BISWAS, Presiding Officer

नई दिल्ली, 1 अगस्त, 2001

का.अ. 2259.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्तर्गण में, केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अन्वय में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिग्रहण सं. 2, धनबाद के पंचाट को प्रकाशन करती है, जो केन्द्रीय सरकार को 1-8-2001 को प्राप्त हुआ था।

[स. एन-20012/394/94-आई आर (सी-1)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 1st August, 2001

S.O. 2259.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 2, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 1-8-2001.

[No. I-20012/394/94-IR(C-I)]
N. P. KESAVAN, Desk Officer.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. Biswas, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I. D. Act, 1947

Reference No. 135 of 1995

PARTIES :

Employers in relation to the management of
Sudamdih Shaft Mines of M/s. BCCL and
their workman.

APPEARANCES :

On behalf of the Workman—Shri D. Mukherjee, Secretary, Bihar Colliery Kamgar Union,

On behalf of the Employer—Shri B. Joshi, Advocate.

STATE : Jharkhand.

INDUSTRY : Coal.

Dated, Dhanbad, the 23rd July, 2001

AWARD

The Government of India, Ministry of Labour, in exercise of the power conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/394/94-I.R. (Coal-I), dated, the 19th September, 1995 :

SCHEDULE

"Whether the action of the management of Sudamdih Shaft Mine of M/s. BCCL in dismissing Shri Padam Lochan Pathak from the services of company is justified? If not, to what relief the concerned workman is entitled?"

2. The case of the concerned workman as per W. S. in brief is as follows :—

The concerned workman submitted that he was a permanent T.R.W. at Sudamdih Shaft Mine under M/s. BCCL for a long time. He submitted that due to prolonged illness he could not discharge his duties properly and accordingly he submitted his representation before the management to consider his prayer sympathetically for his deputation on the surface. In spite of submitting such representation before the management, the management did not pay any heed to the same. He submitted that due to aggravation of his illness he started absents from duties with effect from 1-10-1992 though he reported the matter relating to his illness to the management and submitted necessary medical certificate for the same. In spite of giving intimation the concerned workman submitted that he was served with a charge-sheet for misconduct for causing absence without prior intimation with effect from 1-10-92 to 17-10-92. Not only that he was also suspended from duty from the date of issuance of chargesheet. He submitted that

inspite of giving reply to the chargesheet given to him the management did not consider the same. On the contrary they started a domestic enquiry and found him guilty and thereafter discharged him from his service. It is the specific allegation of the concerned workman that his order of dismissal was not only illegal and arbitrary but also it violated the principles of natural justice. Accordingly he has prayed for passing necessary award to reinstate him with full back wages and other consequential benefits.

3. The management on the contrary after filing W.S.-cum-rejoinder have denied all the claims and allegations which the concerned workman asserted in his W. S. It has been submitted by the management that the concerned workman was working as Explosive Carrier in time rated category II during the years 1939 to 1992. They submitted that an Explosive Carrier is a competent person and he assists the Shotfirer in carrying the explosive from the Magazine to the underground mine. He works as a guard at the time of blasting to prevent unauthorised entry of any person within the blasting zone and the concerned workman was given proper training and he has experience in working as explosive carrier. Considering the nature of job for which the concerned workman was employed it was essential on his part to report for his duty in time and in case of his incapability of performing duties on account of sickness or for any other cause he is required to intimate the management much earlier that necessary substitute could be arranged for his job. The management alleged that the concerned workman was a habitual absentee and in the years 1989, 1990, 1991 and 1992 he worked only for 159 days, 156 days, 85 days and 90 days respectively. The management further alleged that the concerned workman never informed the management regarding his unauthorised absence on any occasion and for which he caused serious problem to the management. He was given several warning both verbally and in writing and disciplinary action was also initiated against him but it was observed that in any way he was not improving his conduct and developed the habit of absenting from his duties without permission and without prior intimation. The management submitted the concerned workman started absenting from his duty with effect from 1-10-92 and he was issued with a chargesheet dated 22-10-92 calling explanation from him for his absence for more than 10 days from 1-10-92 to 17-10-92. In response to the said chargesheet the concerned workman submitted his reply dated 27-10-92 taking the plea that he was sick and he sent intimation under certificate of posting. His reply was unsatisfactory and for which the management finding no other alternative way started a domestic enquiry and during the enquiry the workman was given full opportunity to plead his own case. The said domestic enquiry was fixed on 6-11-92. Notice was duly served upon the concerned workman and on 10-11-92 the concerned workman appeared before the Enquiry Officer and in his presence the said domestic enquiry was held by the Enquiry Officer. The Enquiry Officer after completing the enquiry submitted his report. The management submitted that the order of dismissal was legal, proper and in accordance with the principles of natural justice and for which he is not

entitled to get any relief. Accordingly the management has prayed for passing an Award holding the concerned workman is not entitled to any relief.

4. Before taking up final hearing of the instant reference a preliminary issue was taken up for hearing by my predecessor in office to consider the fairness, propriety as well as the legality of the domestic enquiry held by the Enquiry Officer appointed by the management. By Order No. 37 dated 21-9-99 it was held that the domestic enquiry held by the Enquiry Officer was fair and proper. As such on the basis of the said finding referred to above the instant case was taken for final hearing.

5. Now the points for consideration in this reference are :—

“Whether the action of the management of Sudamdih Shaft Mine of M/s. BCCL in dismissing Shri Padma Lecha Pathak from the services of company is justified? If not, to what relief the concerned workman is entitled?”

Decision with Reasons

6. It is admitted fact that the concerned workman was an employee under the management. It is the specific contention of the management that the concerned workman was working as Explosive Carrier in time rated Cat. II during the period from 1989 to 1992. It has been further submitted that the Explosive Carrier is a competent person and he assists the Shotfirer in carrying explosive from the Magazine to the underground mine. He works as guard at the time of blasting to prevent unauthorised entry of any person within the blasting zone. Accordingly considering the gravity of the job the concerned workman was given proper training and he acquired efficiency and experience in working as Explosive carrier. It is the allegation of the management that as the concerned workman was habitual absentee from his duties they found extreme difficult to carry on the blasting job in the colliery. The management alleged that they suffered loss seriously. It has been further alleged that the concerned workman in the year 1989, 1990, 1991 and 1992 worked only for 159 days, 185 days, 85 days and 90 days respectively. The management further submitted that he was properly cautioned for his habitual absence in duty and even on one occasion disciplinary action also was initiated against him. But inspite of giving caution and disciplinary action taken against him the concerned workman did not mend his character in the matter of attending his duties regularly. It has been submitted by the management that from 1-10-92 the concerned workman again started absenting from duty continuously and finding no other alternative way the management issued a chargesheet on 22-11-92 for causing his unauthorised absence for more than 10 days continuously from 1-10-92 to 17-10-92. The concerned workman in response to the chargesheet gave his reply dated 27-10-92 but as the said reply was unsatisfactory a domestic enquiry was held in his presence by the Enquiry Officer being appointed by the management and the Enquiry Officer completing the enquiry found him guilty and submitted his report. Relying on the said report the management issued an order of dismissal to the concerned workman from his service. The chargesheet during evidence was

marked Ext. M-1 while the order of dismissal issued by the management dated 25-11-92 was marked as Ext. M-5. In the Chargesheet the management has brought two fold allegation against the concerned workman. First charge was that the concerned workman remained absent himself from work continuously for more than 10 days from 1-10-92 to 17-10-92 without permission and satisfactory cause. The second charge was that the concerned workman was habitual absentee without leave or without sufficient cause. The concerned workman on the contrary stated clearly in his W.S. that after getting his appointment he fell ill and due to prolonged illness he could not find scope to perform his duties properly and accordingly he submitted representation before the management with prayer for his deployment on the surface on the said ground. But the management did not pay any heed to his appeal. Therefore, considering the submission of the concerned workman it is seen that he could not perform his duties due to his prolonged ailment. The concerned workman submitted that from 1-10-92 he could not attend his duties for his ailment though informed the matter to the management under certificate of posting. But the management inspite of knowing his physical position ignored the same and issued a chargesheet against him to which he gave reply but the management without considering the facts disclosed in reply started a domestic enquiry illegally and arbitrarily and relying on the report of the said Enquiry Officer dismissed from service. It is the specific contention of the concerned workman that the order of dismissal was not only unfair improper but also it was arbitrary and against the principle of natural justice. It is seen from the record that in course of domestic enquiry a medical certificate duly signed by the Medical Officer Sudamdih Hospital was produced. It is further seen that the said hospital is under the management of BCCL. From this discharge certificate it transpires that the concerned workman was sick and under his treatment in the said hospital from 7-9-92 to 19-10-92. It is the specific allegation of the management that the concerned workman started absenting himself from duty continuously from 1-10-92 and for which he was served with a chargesheet for his misconduct. On the contrary it is the specific submission of the concerned workman that during the said period he was ill and the matter was duly informed to the management under certificate of posting. The discharge certificate issued by the Medical Officer of the management speaks clearly that long before 1-10-92 the concerned workman was under treatment in the hospital under the management. The discharge certificate which is forthcoming before the Court in course of final hearing was not challenged by the management relating to its genuinity. As such there is no dispute to hold that the concerned workman was under medical treatment in the hospital of the management from 7-10-92 to 19-10-92. As such there is further scope to say that such absence of the concerned workman from duty was not intentional but he did it under compelling circumstances. I really astonished that the concerned enquiry officer ignored this fact at the time of domestic enquiry. Therefore, considering all these aspects I do not find any scope to say that the absence from duty by the concerned workman during the said period was intensioned. It is the specific allegation of the mana-

gement that the concerned workman was a habitual absentee and inspite of giving due caution and also intimation of disciplinary proceeding he did not mend his attitude. On the contrary it is the contention of the concerned workman that due to his continuous illness he did not find scope to attend his duties and for which he made representation to the management for his deployment in the surface on compassionate ground. But the management did not pay any heed to his appeal. It has to be borne into mind that untill and unless any honest intention is existed none will dare to admit the fact of his absence from duty. Here it is seen that the concerned workman though admitted the fact of his absence from duty has assigned it's reason. The management in course of hearing did not believe this claim. It is not expected that a person who often remained ill will be able to carry on its duties normally. The job which was entrusted to the concerned workman was definitely a serious in nature. Naturally physical fitness was very much essential. But inspite of informing this fact to the management by the concerned workman the management ignored the same. There was scope on the part of the management to arrange for his voluntary retirement declaring him medically unfit but the management did not consider to do so. On the contrary with the allegation of misconduct for his habitual continuous absence he was dismissed from his service. A person who during the period as alleged by the management remained under treatment in the hospital run by the management would not be expected to carry on his duties. Therefore considering all aspects carefully and also considering the discharge of certificate issued by the Medical Officer of the management I find it very difficult to say that the concerned workman committed any misconduct for his continuous absence from duty for the period from 1-10-92 to 17-10-92. I therefore hold that the order of dismissal passed by the management was not only unfair and improper but also it violated the principles of natural justice. In the result, the following Award is rendered :—

"The action of the management of Sudamdih Shaft Mine of M/s. BCCL in dismissing Shri Padam Lochan Pathak from the services of company is not justified. Consequently, the concerned workman is entitled to reinstatement but without any back wages".

The management is directed to implement the Award within three months from the date of publication in the Gazette of India.

B. BISWAS, Presiding Officer.

नई दिल्ली, 7 अगस्त, 2001

का.आ. 2260—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचना में, केन्द्रीय सरकार रीजनल प्रोवीडेंट फंड कमिश्नर के प्रबंधन के सबद नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, भुवनेश्वर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-8-2001 को प्राप्त हुआ था।

[म. एल-42011/11/99—ग्राई आर (डी.य.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 7th August, 2001

AWARD

S.O. 2260.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Regional Provident Fund Commissioner and their workman which was received by the Central Government on 7-8-2001.

[No L-42011/11 99-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT
BHUBANESWAR

PRESENT :

Shri S. K. Dhal, OSJS, (Sr. Branch),
Presiding Officer, C.G.I.T.-cum-
Labour Court, Bhubaneswar.

Tr. Industrial Dispute case No. 287/2001

Dated Bhubaneswar, the 26th July, 2001

BETWEEN

The Management of Regional Provident Fund
Commissioner, Bhavishya Nidhi Bhawan,
Janpath, Unit-IX, Bhubaneswar-751001

.. 1st Party-Management.

AND

Their workman, represented through their,
General Secretary, EPF Staff Union,
C/o. Office of RPFC, Bhavishya Nidhi
Bhawan,

Janpath Unit IX, Bhubaneswar.

2nd Party-Union

APPEARANCES :

Shri S. Das Mohapatra, Enforcement Officer,
Legal O/o. Regional Provident Fund.

Commissioner, Bhubaneswar.

.. For the 1st Party Management.

Shri K. C. Gena, General Secretary,
EPF Staff Union, O/o. RPFC,

Bhubaneswar . For the 2nd Party Union.
2550 GI 2001-10

The Government of India in the Ministry of Labour, in exercise of Powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Dispute Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L 42011/11 99/IR(DU), dated 30 7-1999: —

“Whether the action of the Management by not corresponding with the General Secretary of the Union (who is under suspension) is legal and justified? If not, to what relief the workman/General Secretary is entitled?”

2. While sending the reference intimation was sent to both the parties to file their respective Claim Statement and documents before the Tribunal. The parties were also noticed by this Tribunal and they have made their appearance. The representative of the Union has filed a petition stating that after fresh election held for the period 2000—2002, there is a mutual understanding between the Management and the Union. So there is no dispute exists between the parties and the Management has also conceded this fact.

3. In view of the above facts this Tribunal is of the opinion that presently no Industrial Dispute exists between the parties. Hence, no dispute award is passed.

4. Reference is answered accordingly.

S. K. DHAL, Presiding Officer

नई दिल्ली, 7 अगस्त, 2001

का.आ. 2261—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्तर्गण मे, केन्द्रीय सरकार सपरिन्टेन्डेंट ऑफ पोस्ट आफिस के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बेगलौर के पचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-8-2001 को प्राप्त हुआ था।

[सं. एल-40012/250/91-आई.यार. (डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 7th August, 2001

S.O. 2261—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government

Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Supdt. of Post Offices and their workman which was received by the Central Government on 7-8-2001.

[No. L-40012|250|91-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT

“SHRAM SADAN”.

III MAIN, III CROSS, II PHASE, TUM-
KUR ROAD, YESHWANTHPUR,
BANGALORE

Dated : 30th July, 2001

PRESENT :

HON'BLE SHRI V. N. KULKARNI,
B.COM, LLB, PRESIDING OFFICER

CGIT-CUM-LABOUR COURT,
BANGALORE

C. R. No. 73|92

I PARTY :

S. R. Kulkarni,
Satti Post,
Chikodi Division,
Chikodi-591201,
(Advocate-Shri Anant P. Savadi).

II PARTY :

The Superintendent of Post Offices,
Chikodi Division,
Chikodi-591210,
(Advocate-Shri V. P. Kulkarni).

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Dispute Act, 1947 has referred this dispute vide order No. L-40012|250|91-IR(DU) dated 2-9-92 for adjudication on the following schedule :—

SCHEDULE

“Whether the Management of Supdt. of Post Offices, Chikodi Division, Chikodi is justified in terminating the services of Shri S. R. Kulkarni, extra Departmental delivery agent w.e.f. 28-4-1983 ? If not, what relief the workman is entitled to ?”

2. The first party was taken as Extra Department Delivery Agent at Satti Post Office by the Superintendent of Post and work was by the management and he was working with the management satisfactorily. He was given memo which was not correct and without any enquiry he was not continuing and therefore the industrial dispute is raised.

3. Parties appeared and filed Claim Statement and Counter respectively.

4. The case of the first party in brief is as follows :

5. The first party was taken as Extra Department Delivery Agent at Satti Post Offices by the Superintendent of Post and work of packing was extracted by the Department of post and same is also shown in the Inspection Report as Extra Department Packer Since 1969. He worked satisfactorily. But to the surprise of the First party, an office Memo bearing No. PF|SRK|Satti dated 22-5-1982 came to be issued in which proposed action against the first party came to be mentioned and explanation was called for. The memo was not given by the Competent Authority and no charge sheet was given. No enquiry was conducted properly. Enquiry was against the principles of natural justice.

6. It is the further case of the first party that he applied for leave and the same was sanctioned by the Competent Authority. Despite it, it was alleged that it was the case of unauthorised absence. The first party for these reasons has prayed to pass award in his favour.

7. The case of the Second Party in brief is as follows :

8. It is true that the first party was appointed as EDDA and he was not willing to work as EDDA. First party was doing ED Packer's job and he was directed to do the

EDDA job for which he was appointed. The first party refused to do the work of delivery.

9. It is the further case of the management that the first party started availing leave and remained absent for more than 180 days during the period from 8-6-1981 to 15-12-1981 and according to the Rule 5 of the ED Agents (Conduct & Service Rule) 1964 action was taken. The first party was directed to report for duty on 7-1-1982 but he did not report for duty. All other allegations are false.

10. The Enquiry Officer has conducted the enquiry as per rules and principles of natural justice and therefore, the allegations are not correct. Management for these reasons has prayed to reject the reference.

11. It is seen from the records that during the pendency of this reference application to bring the LRs of first party was filed. LRs were brought on record and matter was posted for arguments. Thereafter the LRs of the first party did not attend the court at all. This is a matter of 1992 so matter was closed after hearing the management.

12. I have carefully perused the available records. LRs of the first party did not represent the case at all. Admittedly the reference is to the effect that the dismissal order is illegal.

13. In the given circumstances first party is not alive and his LRs are ordered to be brought on record. The LRs of the first party have not taken any steps to come on record.

14. We have some enquiry papers. The judgement of the Hon'ble Supreme Court of India in Civil Appeal No. 3385-86 of 1996 is filed along with other appeals. The LRs of the first party have not taken any interest in this proceedings and not conducted the case at all. The LRs of the first party are not interested in this case. In view of this fact I proceed to pass the following order.

ORDER

The reference is rejected.

(Dictated to PA transcribed by her corrected and signed by me on 30th July, 2001).

V. N. KULKARNI, Presiding Officer

नई दिल्ली, 10 अगस्त, 2001

का.प्र. 2262.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 17 के अनुसरण में, केन्द्रीय सरकार डाइरेक्टर मिलिट्री फार्म, दौस्टी कमांड, के प्रबंधन के संबंध नियोक्तों और उनके कर्मचारों बीच, अन्तर्वध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चण्डीगढ़ के रंचाट को प्रेषित करती है, जो केन्द्रीय सरकार को 10-8-2001 को प्राप्त हुआ था।

[मं. पं. नं-14011/2/99—आई.आर. (डो.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 10th August, 2001

S.O. 2262.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Director, Military Farm, Western Command and their workman, which was received by the Central Government on 10-8-2001.

[No. L-14011/2/99-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE SHRI B. L. JATAV, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH

Case No. ID 156/99

The Secretary,
Western Command Military Farm
Workers Union, C/o
Military Farm
Ambala Cantt.
Haryana
(Union)

Vs.

The Director, Military Farm
Western Command, Head Quarter,
Chandimandir,
2. Officer Incharge,
Military Farm,
Ambala Cantt.

Management.

APPEARANCES:

For the Union : Shri Dhani Ram.

For the Management : None.

AWARD

(Passed on 24th of July, 2001)

The Central Government vide gazette notification No. L-14011/2/99/IR(DU) dated 21st of July 1999 has referred the following dispute to this Tribunal for adjudication:

"Whether the action of the Director, Military Farm, Western Command Head Quarter Chandimandir and Officer Incharge, Military Farm, Ambala Cantt in denying the demand of the Western Command Military Farm Workers Union (Regd.), Ambala Cantt for grant of night allowance to the 'Shed Cleaners' is legal and justified? If not, to what relief the workmen are entitled?"

Versus

Director,
Central Institute for Research
on Buffaloes,
Hissar, Haryana .. Management.

APPEARANCES:

For the workman : Shri Darshan Singh.

For the management : Shri R. K. Sharma
Advocate.

AWARD

(Passed on 8th of June 2001)

The Central Govt. vide gazette notification No. L-42012/48/95-I.R.(D.U) Dated 30-5-96 has referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of Central Institute for Research on Buffaloes Hissar in terminating the services of S/Sh. Satbir Singh, Rajbir Singh, Chandi Ram, Radhey Shyam, Subash, Baljit Singh, Roop Ram, Ishwar and Smt. Ram Koori is just, fair and legal? If not, to what relief the concerned workmen are entitled to?"

2. The representative of the workman appeared. He intends to withdraw the case against the management. The representative of the management has no objection. In view of the above, the request of the rep. of the workman is accepted, and no dispute award is returned to the Ministry. Appropriate Govt. be informed.

Chandigarh.

8-6-2001.

B. L. JATAV, Presiding Officer

नई दिल्ली, 10 अगस्त, 2001

का.आ. 2264—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में, केन्द्रीय सरकार बी.बी.एम.बी. डिवीजन के प्रबंधन के संवद्ध निोजकों और उनके कर्मकारों बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण चण्डीगढ़ के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-8-2001 को प्राप्त हुआ था।

[सं. एन-42012/151/91-आई.आर. (डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 10th August, 2001

S.O. 2264.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of B.B.M.B. Division and their workman, which was received by the Central Government on 10-8-2001.

[No. L-42012/151/91-IR(DU)]

KULDIP RAI VERMA, Desk Officer

2. Today the case was fixed for filing of claim statement by the Union. Reg. of Union Shri Dhani Ram appeared and made the statement that the union does not want to pursue with the present reference. The same may be returned as withdrawn by the Union. In view of the statement of the rep. of the Union the present reference is returned to the Ministry as withdrawn. Appropriate Govt. be informed.

Chandigarh.

24-7-2001.

B. L. JATAV, Presiding Officer

नई दिल्ली, 10 अगस्त, 2001

का.आ. 2263—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में, केन्द्रीय सरकार केन्द्रीय मैन अनुसंधान स्थान के प्रबंधन के संवद्ध निोजकों और उनके कर्मकारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चण्डीगढ़ के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-8-2001 को प्राप्त हुआ था।

[सं. एन-42012/48/95-आई.आर. (डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 10th August, 2001

S.O. 2263.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Instt. for Research on Buffaloes and their workman, which was received by the Central Government on 10-8-2001.

[No. L-42012/48/95-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE SHRI B. L. JATAV, PRESIDING
OFFICER, CENTRAL GOVT. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
CHANDIGARH

I.D. No. 52/96

Distt. President, Karamchhari Union
C.I.R.B. Hissar

..Petitioner.

ANNEXURE

BEFORE SHRI B. L. JATAV, PRESIDING
OFFICER, CENTRAL GOVT. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,

CHANDIGARH

Case No. I.D. 64 of 1992

General Secretary,
Beas Sutlej Link Project,
Mazdoor Emta Union, Sundernagar
Township, Distt. Mandi (HP)-174402. . . Petitioner.
Vs.

Executive Engineer,
B.B.M.B., Hydrel Channel Division
(Baggi Electrical & Mechanical)
B.B.M.B. Division, Sundernagar
Township Distt. Mandi (HP) 174402 . . Respondent
REPRESENTATIVES :

For the workman : Shri Dhani Ram.

For the management : Neeru Chadha.

AWARD

(Passed on 20th July, 2001)

The Central Govt. Ministry of Labour vide Notification No. L-42012/151/91-I.R. (D.U) dated 29th June 1992 has referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of BBMB Hydrel Channel Division in terminating the services of Shri Ram Dutt S/o Thikhu w.c.f. August, 1989 is justified ? If not, what relief he is entitled to ?”

2. Case taken up today at the request of the rep. of the workman. The rep. of the workman made a statement that workman does not want to proceed with the present reference as he has been re-employed by the management. In view of the statement of the rep. of the workman the present reference is returned as No dispute award.

Appropriate Govt. be informed.

Chandigarh.
20-7-2001.

B. L. JATAV, Presiding Officer

नई दिल्ली, 8 अगस्त, 2001

का.प्र. 2265.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्तर्गण में, केन्द्रीय सरकार दक्षिणी रेलवे, तिरुचिरापल्ली के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अन्तर्गण में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय केन्द्र के पंचाट को प्रकाशन करती है, जो केन्द्रीय सरकार को 07-08-2001 को प्राप्त हुआ था।

[सं. एल-41012/204/94-आई. आर. (बी-1)]

अजय कुमार, डैस्क अधिक

New Delhi, the 8th August, 2001

S.O. 2265.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Southern Railway, Tiruchirappalli and their workman, which was received by the Central Government on 7-8-2001.

[No. L-41012/204/94-IR(B-1)]
AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, CHENNAI

Wednesday, the 1st August, 2001

PRESENT :

K. Karthikeyan, Presiding Officer,
Industrial Dispute No. 397/2001

(Tamil Nadu State Industrial Tribunal
I.D. No. 32/96)

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Workman Shri S. Vittalraj and the Management of Southern Railway, Tiruchirappalli.

BETWEEN

Sri S. Vittalraj. . . I Party/Workman

AND

The D.P.O.,
Southern Railway,
Tiruchirappalli. . . II Party/Management

APPEARANCES :

For the Workman : Sri F. Fenn Walter, D. Geetha
and J. Soundarichandrasekar, Advocates.

For the Management : Sri P. Arulmudi, Advocate.

The Government of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947) have referred the concerned Industrial Dispute for adjudication vide Order No. L-41012/204/94-IR(B-I) dated 19-03-1996.

This reference has been made earlier to the Tamil Nadu Industrial Tribunal, where it was taken on file as I.D. No. 32/96. When the matter was pending enquiry in that Tribunal, the Government of India, Ministry of Labour was pleased to order transfer of this case from that Tribunal to this Tribunal for adjudication. On receipt of records from that Tribunal, the case has been taken on file as I.D. No. 397/2001

and notices were sent to the counsel on either side informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 20-02-2001. On receipt of notice from this Tribunal, the counsel on either side were present with their respective parties and prosecuted this case further.

When the matter came up before me for final hearing on 21-06-2001, upon perusing the Claim Statement, Counter Statement, other material papers on record and upon hearing the arguments advanced by the learned counsel on either side and this matter having stood over till this date for consideration, this Tribunal has passed the following :—

AWARD

The Industrial Dispute referred to in the above order of reference by the Central Government for adjudication by this Tribunal is as follows :—

“Whether the action of the Management of Southern Railway in terminating the services of Shri S. Vittalraj with effect from 22-09-76 is justified? If not, to what relief he is entitled?”

2. The averments in the Claim Statement filed by the I Party/Workman are briefly as follows :—The I Party/Workman Sri S. Vittalraj (hereinafter referred to as Petitioner) entered service in the II Party/Southern Railway/Management as Khalasi in the year 1960. He was working as Khalasi of the Golden Rock Workshop, Trichy. Since he was suffering from ailment pertaining to nervous system, he was in the habit of wearing copper wire around his waist. The said copper wire was given by his friend, when he was working at Tanjavur. On 10-5-1973 at about 17.15 hrs. when he was going out after duty the R.P.F. staff checked his personal belonging. At that time, he questioned him regarding the copper wire around his waist. The Petitioner explained them that it was not railway property and that he has been using it on medical advise for many years. But he was taken to the RPF Office and was subjected to coercion, intimidation, threats and force and he was forced to sign a statement prepared by the Inspector Mr. Sambandam. The copper wire was seized from him as theft property. In this connection, the charge sheet dated 22-6-73 was issued. It is alleged in the charge sheet that the Petitioner has committed a serious misconduct by attempting to take out dishonestly within Southern Railway Workshop, Golden Rock, the railway property i.e. copper wire rope weighing about 200 gms. kept concealed in the green underwear of the Petitioner, when he was caught red handed by the RPF at the north gate of Golden Rock workshop at about 17.30 hrs. on 10-5-1973. The Petitioner denied the charge framed against him. An enquiry was conducted by the APE/GOC. In the enquiry, six witnesses were examined for the Management and the Petitioner has examined two witnesses. Among the six witnesses from the side of the Management, two witnesses were not able to state any thing about the incident, the other four witnesses gave contradictory evidence. The first witness had deposed that he did not prepare any recovery memo for the seizure of

the material and he did not prepared any mahazar. The 2nd witness deposed that he does not know whether the copper wire was the railway property or not. The 5th witness had deposed that he prepared the mahazar and statement as dictated by the Petitioner. He had further admitted that there was no identification mark of southern railway in the seized property. Contradictory to the evidence of Management witnesses, defence witnesses had stated that they have seen the Petitioner wearing the said-copper wire for quite some time for his ailment. In spite of this evidence on the Petitioner's side, the Enquiry Officer has given a finding that the Petitioner attempted to take out the copper wire in question dishonestly from the Southern Railway Workshop. The findings of the Enquiry Officer are perverse. He conducted the enquiry with a biased and prejudiced manner and with a pre-concluded notion that the Petitioner would have committed the theft. He had questioned all the witnesses of prosecution and elicited answers in support of the prosecution and thereby functioned as a prosecutor. This is in violation of principles of natural justice. Hence, the findings of the Enquiry Officer holding that the Petitioner was found guilty of charges levelled against him in the enquiry has to be set aside. There was no evidence as a conclusive proof in the enquiry for the Enquiry Officer to hold that the copper wire, the subject matter of the enquiry, is a railway property. The charge against the Petitioner was not proved by the Management before the Enquiry Officer. Hence the findings of the Enquiry Officer that the charges have been proved against the Petitioner is incorrect. The punishment imposed to the Petitioner for the alleged charge is highly disproportionate and warrants interference of this Tribunal under section 11A of the Industrial Disputes Act. The Respondent have failed to consider the Petitioner's part record of service when awarding punishment to the Petitioner. The punishment imposed by the Respondent of the Petitioner by dismissal is disproportionate to the gravity of the alleged misconduct. Hence, this Hon'ble Tribunal may be pleased to hold that the non-employment of the Petitioner is unjustified and direct the Respondent Management to reinstate the Petitioner in service with back wages and continuity of service with all attendant benefits.

3. The averments in the Counter Statement of the II Party/Management are as follows :—

The II Party/Southern Railway Management (hereinafter referred to as Respondent) has contended that the Petitioner was appointed as TY. Gangman on 9-8-1962 in Permanent Way Inspector, Tanjavur and subsequently transferred to Golden Rock Workshop as Khalasi and posted to Wagon, Assembly-Shop, Golden Rock from 7-12-1972. He was removed from service with effect from 22-9-76 afternoon for an attempted theft of railway property, namely copper wire on 10-5-73. The Petitioner was proceeded against departmentally and the enquiry was conducted as per Railway Servants (Discipline & Appeal) Rules, 1968. The Petitioner himself has given a confession statement with regard to the incident on 10-5-1973 and it was marked as Ex. A2 in the enquiry. Though the Petitioner has referred to the confession as a statement obtained from him under threat and force, he had continued to participate in

the enquiry even after that confession statement has been exhibited as A2. Though there are minor discrepancies in the evidence of witnesses, they did not affect the principal proof of guilt of the accused. So, the Enquiry Officer has given a proper finding and the same was accepted by the Disciplinary Authority in awarding punishment to the Petitioner by removing him from service and all of them are strictly in accordance with rules. The Petitioner was caught red handed while he was attempting to remove copper wire from the railway premises. So it is for the Petitioner to prove that it does not belong to the railways and belongs to him exclusively. The punishment imposed to the Petitioner is not disproportionate. In order to protect the public property, the Railway has to take stringent view to curb the ever increasing theft of railway property, as such the punishment imposed is not disproportionate. The Petitioner approached the City Civil Court, Madras by filing a suit O.S. No. 4127/1981 for the relief of declaration i.e. removal from service from 22-9-76 was unjust, improper and illegal and consequently he was deemed to continue in service with all benefits and for cost. The Court was pleased to dismiss the same with cost on 29-12-1983. The appeal filed by the Petitioner was transferred to Central Administrative Tribunal, where on 27-2-1987, the Petitioner had filed a petition for withdrawal of the case and thereby the Central Administrative Tribunal had dismissed that case. The Petitioner has totally suppressed these facts in the Claim Statement. The Judgement in O.S. No. 4127/81 dated 29-12-1983 in respect of the same relief sought for by the Petitioner is binding on the Petitioner on the principles of res judicata. On these grounds also the claim of the Petitioner is got to be dismissed. Therefore, it is prayed to dismiss this industrial dispute as devoid of merits.

4. When the matter was taken up for enquiry, no witnesses were examined on either side. No document has also been filed as exhibits on either side. The counsel on either side have filed their respective written arguments.

5. The point for my consideration is—

“Whether the action of the Management of Southern Railway in terminating the services of Shri. S. Vittalraj with effect from 22-9-1976 is justified? If not, to what relief he is entitled?”

POINT :

The counsel for the Respondent has filed into Court type set of papers as documents of the Respondent/Management. The copies of the same had also been furnished to the counsel for the Petitioner. That type set of papers contain the charge sheet dated 24-9-74 issued against the Petitioner for the alleged misconduct and the enquiry proceedings. The copy of judgement passed by the Civil Court in O.S. No. 4127/81 and the order passed by the Central Administrative Tribunal have been filed. It is seen from the judgement of the Civil Court in O.S. No. 4127/81 a finding has been given with regard to the same relief prayed for by the Petitioner here, in this industrial dispute, stating that the order of removing the Petitioner from service

from 22-9-76 is not unjust, improper and illegal. So it is a decision given by the competent Court in respect of the same relief prayed for by the Petitioner. It is also seen from the records that the Petitioner who preferred an appeal against the judgement passed by the City Civil Court, Madras and the same has been transferred to the file of Central Administrative Tribunal and when it was pending there, he filed a petition to withdraw the case and on that application, the Central Administrative Tribunal, Madras Bench, was pleased to dismiss the same by its order dated 27-2-1987. So from this it is seen that the earlier decision of competent court in respect of the relief prayed for by the Petitioner here in this Tribunal against the Railway Management holds good even to-day and it operates as res judicata as it is represented by the learned counsel for the Respondent.

6. A perusal of the entire enquiry proceedings filed on behalf of the Respondent Management as type set of papers in this case, go to show that the Petitioner as a delinquent employee, who took part in the domestic enquiry conducted against him by the Enquiry Officer for the charge of misconduct levelled against him has been given fair and sufficient opportunity and the Petitioner, delinquent employee has availed that opportunity and has defended himself by cross-examining the six witnesses through his defence counsel, examined on the side of the Management/Railways and has also let in evidence on his side beside examined himself as defence witness. From these things, it is evident that sufficient opportunity has been given to the Petitioner in the domestic enquiry and there was no violation of principles of natural justice. Further, it is seen from the records that the Enquiry Officer has given a finding after assessing the evidence let in before him on either side that the charge levelled against the Petitioner has been proved. Though there were minor discrepancies in the evidence of witnesses examined on the side of the Management in the domestic enquiry they do not affect materially the charge levelled against the delinquent employee, the Petitioner herein. On the other hand, there is sufficient material available in the domestic enquiry for the Enquiry Officer to hold that the alleged misconduct of theft of the Petitioner has been proved is sufficient evidence. As it is held by various Courts and Supreme Court, the principles of proof beyond all reasonable doubt as in a criminal case trial is not applicable to the domestic enquiry. From the material available in this case, it is seen that the proved misconduct of the Petitioner as an employee of the Respondent/Railways is the theft of railway property. It is a serious misconduct for which the punishment awarded by the Respondent/Management as removal from service is quite proportionate and cannot be said to be disproportionate to the gravity of the offence. Further the Railway Management cannot be expected to be such employee who had caught red handed while attempting to commit theft of the railway property in service further. So, under such circumstances, it cannot be said that the punishment imposed by the Railway Management against the Petitioner for the proved misconduct as a disproportionate one which warrants interference of this Tribunal under section 11A of the Industrial Disputes Act. Hence, it can be easily concluded that the action of the management

taken against the Petitioner Woman is just, proper and legal and hence the Petitioner is not entitled to any relief. Thus, I answer the point accordingly.

7. In the result, an award is passed holding that the action of the Management of Southern Railway in terminating the services of Sri Vittalraj w.o.f. 22-9-1976 is justified. Hence, the concerned workman is not entitled to any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 1st August, 2001.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :

On either side : None

DOCUMENTS MARKED :

On either side : Nil

नई, दिल्ली, 8 अगस्त, 2001

का. अ. 2266.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूच में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधात्मक के संबद्ध निरीक्षकों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अन-मार्गालय चेंबर के पत्रों को प्रकाशित करती है, जो केन्द्रीय सरकार का 07-08-2001 का प्राप्ति हुआ था।

[का. सं. एन-12012/309/2000-आई. आर. (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 8th August, 2001

S.O. 2266.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal/Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 7-8-2001.

[F No. L-12012/309/2000-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 20th July, 2001

Present :

K. Karthikeyan, Presiding Officer

Industrial Dispute No. 87/2000

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Workman Shri M. A. Susai Raj and the Management of State Bank of India, Tiruchirappalli.)

BETWEEN

Sri M. A. Susai Raj . . . I Party/Workman

AND

The Deputy General Manager, . . . II Party/Management
State Bank of India,
Tiruchirappalli.

APPEARANCE :

For the Workman :

M/s. Row & Reddy & Mr. W.I Prabhakar,
Advocates

For the Management:

M/s. K. S. Sundar & R. Uma Maheswari,
Advocates

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned Industrial Dispute for adjudication vide Order No. L-12012/309/2000-IR(B-I) dated 7-11-2000.

This dispute on coming up before me for final hearing on 25-6-2001, upon perusing the Claim Statement, Counter Statement, other material papers on record, the documentary evidence let in on either side and upon hearing the arguments of the learned counsel on either side, and his matter having stood over till this date for consideration, this Tribunal has passed the following :—

AWARD

The Industrial Dispute referred to in the above order of reference by the Central Govt. for adjudication by this Tribunal is as follows :—

“Whether the dismissal of Shri M. A. Susai Raj by the Management of State Bank of India is legal and justified? If not, to what relief is the workman entitled?”

2. The averments in the Claim Statement filed by the I Party/Workman are briefly as follows :—

The I Party/Workman Sri M.A. Susai Raj (hereinafter referred to as Petitioner) joined service in the II Party/Management, State Bank of India (hereinafter referred to as Respondent) on 21-7-1980 as Clerk-cum-Cashier at Pondicherry Main Branch. The Deputy General Manager, Zonal Office placed the Petitioner under suspension on 26-7-94 and after a lapse of six months, the petitioner was served charge sheet dated 15-12-94 alleging that on 4-4-94 when the Petitioner was working at the Accounts Division at Pondicherry Branch, Mrs. Beauvallon Marie Anna holder of savings bank account No. 135/C 8906 handed over to the Petitioner the savings bank withdrawal slip for Rs 5000/- along with SB Pass books. One relating to her S.B. account another relating to her son's S.B. Account No. 135/C 8907 with a request to transfer the said amount of Rs 5000/- from her S.B. accounts to her son's S.B. Account. Instead of complying with the above request of Mrs. Beauvallon Marie Anna, the Petitioner withdrew

Rs. 5000/- by cash on 4-4-1994 by signing on the reserve of the withdrawal slip and misappropriated the amount. Thus, it is a gross misconduct in terms of para 521(4)(j) of Sasti Award read with para 18.28 of the said Award. The Disciplinary Authority placed the Petitioner under suspension on 26-7-94 based on the letter dated 25-7-1994 of Mrs. Beauvallon Marie Anna to the Branch Manager, State Bank of India, Pondicherry Branch. The Petitioner denied the charges levelled against him by his reply dated 11-1-1995. Enquiry was held into the said charges. The Enquiry Officer conducted farce of an enquiry in a prejudiced manner and in utter violation of principles of natural justice. The Enquiry Officer without assessing properly the evidence on record in an impartial manner submitted his findings that the Petitioner is guilty of the charges through his report dated 20-1-1996. A show cause notice dt. 6-1-98 was issued to the Petitioner for which the Petitioner has submitted his reply dated 19-1-98. The Petitioner has requested by his letter dated 20-1-98 to the Respondent to exonerate him from the charges, since the findings of the Enquiry Officer is a clear violation of principles of natural justice and are perverse. The Respondent by his letter dated 27-4-98 imposed the punishment on the Petitioner by dismissing him from service. The Petitioner preferred an appeal dated 13-7-98 against the order of the Disciplinary Authority. The appeal was rejected by the Appellate Authority by an order dated 25-9-98. Both the Disciplinary Authority and the Appellate Authority have not considered the evidence on record and have failed to give adequate reasons for accepting the findings of the Enquiry Officer. Since the findings of the Enquiry Officer are perverse and not supported by any legally admissible evidence, it is liable to be set aside. The report on investigation done by PW3, was not furnished to the petitioner but it was relied upon in the domestic enquiry. The Petitioner has not committed any misconduct warranting extreme punishment of dismissal. There is no loss to the bank. The entry of Rs. 5000/- in the pass book was only an error which was committed due to oversight but not with an intention to defraud the bank or customer. Even if the charges have been proved, the extreme punishment of dismissal from service is hardly justified. Hence this Hon'ble Tribunal may be pleased to interfere with the action of the Management against the Petitioner for dismissal from service under section 11A of the Industrial Disputes Act, 1947 and to hold that the dismissal of the Petitioner from service is not justified and to direct the Respondent to reinstate the Petitioner with effect from service under section 11A of the Industrial Disputes Act.

3. The averments in the Counter Statement filed by the Respondent are briefly as follows :—

It is accepted case of the Petitioner that he withdrew Rs. 5000/- from the account of the customer of the Respondent/Bank and tampered with records and such acts are serious and material misconducts. By this misconduct, the Petitioner had lost his credibility and confidence with the employer/Respondent. Hence, the punishment of the dismissal of the Petitioner was legal and justified. The Petitioner as a

staff of the Respondent/Bank of the branch at Pondicherry committed misappropriation of Rs. 5,000/- of a bank's customers money and tampered with the records of the bank given to the customer in order to conceal his misconduct. Tampering records is a serious offence and stood proved in the enquiry. The S.B. Account holder Mrs. Beauvallon Marie Anna gave a complaint dated 25-7-94. After the letter of Mrs. Beauvallon Marie Anna, the Petitioner had persuaded her and she succumbed to the pressure and had taken a lenient view and gave the other letter dated 27-7-94. Since the confidence of the employer over the Petitioner was lost he was placed under suspension from 26-7-1994 and an enquiry was ordered. The Petitioner fully participated in the enquiry through his defence representative and cross examined the Management witnesses. The Petitioner also examined Mrs. Beauvallon Marie Anna as DW1. She gave evidence that she could not remember her letter dated 27-7-1994. On the entire materials, the Enquiry Officer has found that both the charges against the Petitioner stood proved and gave his report. After hearing the Petitioner, on 27-4-98, the Disciplinary Authority passed the order of punishment by dismissing the Petitioner from service. The Appellate Authority also gave personal hearing to the Petitioner and after considering all the materials on record, confirmed the punishment of dismissal. The Enquiry has been conducted duly in accordance with principles of natural justice by an authority and no prejudice is caused to the Petitioner. The investigation officer was examined and the Petitioner had an opportunity to cross examine him. The investigation report was not relied upon by the prosecution and the Enquiry Officer proceeded with the case on the basis of the evidence and materials available on records. It is not necessary to provide copy of the investigation report to the delinquent employee. The Petitioner was working in the pensioner seat located in the first floor and not in the Banking Division where the savings bank account is maintained. The fact that the Petitioner had initiated in the savings bank pass book for which he is not authorised to do would show mala fide intention of the Petitioner. Further, the Petitioner made a credit entry in the savings pass book without actually putting through the transactions. The nature of misconduct proved in the course of the enquiry is so brief that public interest is suffer and hence the punishment given to the Petitioner is correct. Hence, it is prayed that this Tribunal may be pleased to hold that the order of dismissal is legal, valid and justified and to dismiss this dispute.

4. When the matter was taken up for enquiry, the counsel on either side gave consent for marking the documents filed on either side as exhibits in this case. Thus Ex W1 to W18 and M1 to M15 were marked by consent of counsel on either side. Neither party had chosen to examine any body as his witness. The counsel on either side have advanced their respective arguments.

5. The point for my consideration is—

"Whether the dismissal of Shri M. A. Susai Raj by the Management of State Bank of India is legal and justified? If not, to what relief is the workman entitled?"

Point :—

The I Party/Workman Sri M. A. Susai Raj, the Petitioner herein was working in the Respondent/Bank at Pondicherry as a Clerk. It is alleged that on 4-4-94 when he was working in Accounts Division of Pondicherry branch, he had committed an act of misconduct of misappropriation of Rs. 5,000/- using the savings bank withdrawal slip handed over to him by the savings bank account holder. A charge sheet dated 15-12-94 was issued to him. The xerox copy of the same is Ex. W2. Prior to that he was placed under suspension by an order dated 26-7-94. The xerox copy of the same is Ex. W1. The said charge sheet was given to the Petitioner on the basis of a complaint dated 25-7-94 given by the savings bank account holder, a customer of the Respondent/Bank, Pondicherry branch. The xerox copy of the same is Ex. M1. In pursuance of the charge sheet given to the Petitioner, he gave a reply dated 11-1-1995. The xerox copy of the same is Ex. W3 and M15. Then an enquiry was conducted by the Respondent/Bank. The xerox copy of the enquiry proceedings have been filed as Ex. W4. In that enquiry the defence representative submitted his brief. A xerox copy of the same is Ex. W5. On completion of the enquiry, the Enquiry Officer has submitted his report holding that the charges levelled against the Petitioner has been proved on the theory of preponderance of probability, taking into the circumstances of the case. The xerox copy of the report of the Enquiry Officer is Ex. W6. It is the contention of Petitioner that the charges are based on the investigation report and the Enquiry Officer also has relied upon that report and has given his findings. But the said report has not been furnished to the Petitioner inspite of his several requests. So, non-furnishing of the Enquiry Officer's report to the Petitioner which is relied upon by the Management in the domestic enquiry is violative of principles of natural justice and further it amounts to denial of reasonable opportunity to the employee to put forth his defence. The learned counsel for the Respondent would argue that the investigation report was not basis material which was relied upon by the Management during the course of enquiry or prior or subsequent to the enquiry. The official who went to investigate into the matter, one Mr. P. V. Balachandran has been examined as PW3 in the enquiry and even in the course of the examination, the said Sri P. V. Balachandran has not relied upon the investigation report which was in the nature of collecting dates and the said PW3 was cross examined by the defence representative at length and hence, it cannot be said that the non-furnishing of investigation report had prejudiced the Petitioner very much and thereby he was denied reasonable opportunity to put forth his defence effectively. It is seen from the enquiry proceedings that the said Investigating Officer, who has been examined as PW3 in the enquiry, was cross examined with reference to the first complaint given by the savings bank account holder Mrs. Beauvallon Marie Anna, Ex. M1, and also her letter given at a later stage marked as Defence Ex. 1 in the enquiry, which is Ex. M11 here. PW3 has been further examined with regard to another letter given by the said savings bank account holder marked as Defence Ex.2 in the enquiry, which is Ex. M12 here. From the

evidence of PW3 and also the documentary evidence placed before the Enquiry Officer, the Enquiry Officer has given a finding in his report that PW3 had enquired the savings bank account holder Mrs. Beauvallon Marie Anna and her son elaborately and he proceeded on the materials placed before him that the complaint was received by the bank from the concerned savings bank account holder, which is the basis for the disciplinary action. It cannot be said that the Management had taken a disciplinary action against the Petitioner/Workman without any basis or on a false complaint given by the savings bank account holder. The said account holder was examined as a defence witness has given another letter in support of the Petitioner, the charge sheeted employee i.e. perhaps on persuasion and pressure given by the charge sheeted employee to the concerned lady. It is further seen from the enquiry proceedings that two other witnesses were examined on the side of the Management and the documents marked on the side of the Management in respect of these transaction, which are exhibited here as M2 to M10 clearly shows that they have established the charges filed against the delinquent employee, the Petitioner herein. As submitted by the learned counsel for the Respondent, the non-supply of the document which has no bearing on the charges and not relied upon by the Enquiry Officer in support of the charges will not prejudice the delinquent and no prejudice will be caused. It is so held in the case reported as 1982 (Supp) SCC 518 by the Supreme Court. In another case reported as 1996 5 SCC pg. 474, the Supreme Court has held that "the duty of the authority is only to supply the relevant document and not each and every document, asked by the delinquent. It should be established as to how the non-supply of a document has prejudiced the case of the workman." These decisions of the Supreme Court are squarely applicable to the facts of this case. The delinquent employee, the Petitioner herein cannot said to be prejudiced by the non-supply of the enquiry report of PW3 when the Management is not relying upon the same in the enquiry as a document to prove the charge against the Petitioner. So under such circumstances, it cannot be held that without any material or evidence the Enquiry Officer has given a finding in his report that the charge levelled against the delinquent employee has been proved invoking the theory of preponderance of probability. So it cannot be said that it is a perverse finding of the Enquiry Officer.

6. It is the next contention of the learned counsel for the Petitioner that the punishment awarded to the Petitioner by the Disciplinary Authority as dismissal from service is disproportionate to the gravity of the charges, since the amount involved in this charge is only Rs. 5,000/-. From the materials available in this case, it is seen that apart from unauthorized withdrawal and misappropriation of Rs. 5,000/- by the delinquent employee, there is a charge relates to tampering of bank accounts and making false entry in the pass book of the depositor. This amounts to falsification of records and forgery. The Bank Management cannot be expected to keep this workman in service, who could tamper with the records of the bank by committing forgery and such workman cannot enjoy the confidence of the Management also. So, the Bank Management cannot be expected to

further employ such a person on whom, it has lost confidence in view of the serious charges against him in the banking transactions. Further, the quantum of the amount of the misappropriation is not a relevant factor to judge a misconduct of the delinquent employee. It is held in a case decided by the High Court of Madras 1999 (I) LLJ 185 that "the Labour Court has interfered with the quantum of punishment without warrant or justification or plausible reasons. Sympathy shown to the delinquent was a misplaced sympathy on the part of the Labour Court. Quantum of amount of misappropriation is not a relevant factor to judge the misconduct on the facts and circumstances of the case. The employer had lost its faith and the employee has misconducted himself by forging the signatures claimed monetary benefits apart from bringing bad name to the employer for not rendering the service to the customer whom the employer has already charged. On the findings and in view of the gravity of the misconduct, the punishment cum dismissal from service cannot be said to be disproportionate to the charges established. This observation of the High Court of Madras in that case is also squarely applicable to the facts of the present case. So under such circumstances, taking into Consideration of the proved misconduct of the Petitioner in this case, in view of the gravity of the misconduct the punishment of dismissal from service by the Respondent/Management cannot be considered to be disproportionate to the charges established. Under such Circumstances, it can be concluded that the dismissal of the Petitioner from service by the Management/State Bank of India is legal and justified. Thus, I answer the point accordingly.

7. In the result, an award is passed holding that the dismissal of Sri M. A. Susai Raj by the Management of State Bank of India is legal and justified. Hence, the concerned workman is not entitled for any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 20th July, 2001.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :

On either side : None.

DOCUMENTS MARKED :

For I Party/Workman :

Ex. No.	Date	Description
W1	26-7-94	-Xerox copy of the suspension order.
W2	15-12-94	-Xerox copy of the charge sheet.
W3	11-1-95	-Xerox copy of letter from the Petitioner to the Management.
W4	7-6-95	-Xerox copy of enquiry proceedings.
W5	18-1-96	-Xerox copy of the defence representative's Submissions.
W6	20-1-96	-Xerox copy of Enquiry Report.
W7	6-1-98	-Xerox copy of letter from the Management to the Petitioner.

- W8 20-1-98—Xerox copy of letter of the Petitioner to the Management.
- W9 24-2-98—Xerox copy of letter of the Petitioner to the Management.
- W10 27-4-98—Xerox copy of letter from the Management to the Petitioner.
- W11 13-7-98—Xerox copy of letter of the Petitioner to the Management.
- W12 3-8-98—Xerox copy of letter from the Management to the Petitioner.
- W13 25-9-98—Xerox copy of the final order.
- W14 28-10-99—Xerox copy of letter from the Petitioner to the Regional Labour Commissioner(Central).
- W15 23-6-2000—Xerox copy of letter from the Petitioner to the Assistant Labour Commissioner(Central).
- W16 8-9-92—Xerox copy of account opening form of Beauvallon Marie Anna.
- W17 8-9-92—Xerox copy of account opening form of Mangeny Marie Eric Radjou.

For the II Party/Management :

- M1 28-7-94—Xerox copy of letter from Smt. Beauvallon Marie Anna to Assistant Labour Commissioner(Central)
- M2 4-4-94—Xerox copy of withdrawal voucher of Smt. Beauvallon Marie Anna for Rs. 5000.
- M3 4-4-94—Xerox copy of cashier's payment scroll.
- M4 23-1-94—Xerox copy of withdrawal voucher of Mangeny Marie Eric Radjou for Rs. 2000.
- M5 25-7-94—Xerox copy of statement of account of Beauvallon Marie Anna.
- M6 8-9-92—Xerox copy of S. B. pass book of Beauvallon Marie Anna.
- M7 8-9-92—Xerox copy of S. B. Pass book of Mangeny Marie Eric Radjou.
- M8 8-9-92—Xerox copy of Statement of account of Mangeny Marie Eric Radjou.
- M9 4-4-94—Xerox copy of Bank Cash scroll PEX 10A.
- M10 4-4-94—Xerox copy of Bank Cash scroll PEX 10B.
- M11 27-7-94—Xerox copy of letter from Smt. Beauvallon Marie Anna to the management.
- M12 1-8-94—Xerox copy of letter from Smt. Mangeny Marie Eric Radjou.
- M13 27-7-94—Xerox copy of letter from Smt. Beauvallon Marie Anna to the management.
- M14 1-8-94—Xerox copy of letter from Smt. Mangeny Marie Eric Radjou.
- M15 11-1-95—Xerox copy of letter from the Petitioner to the Management.

नई दिल्ली, 10 अगस्त, 2001

का.अ. 2267.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूच में, केन्द्रीय सरकार स्टेट बैंक ऑफ पटियाला के प्रबंधन के सबूत नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चण्डीगढ़ के पचाट का प्रकाशन करती है, जो केन्द्रीय सरकार का 09-08-2001 को प्राप्त हुआ था।

[फा.सं.एल-12012/261/89-आई.आर. (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 10th August, 2001

S.O. 2267.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Patiala and their workman, which was received by the Central Government on 9-8-2001.

[F. No. L-12012/261/89-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE SHRI B. L. JATAV, PRESIDING OFFICER, CENTRAL GOVERNMENT, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH

Case No. ID 5 of 1990

General Secretary,
State Bank of Patiala Staff Union,
719, Sector 22-A, Chandigarh.

... Petitioner.

Vs.

General Manager (Operation),
State Bank of Patiala,
Main Road, Patiala-147001.

... Respondent.

REPRESENTATIVES :

For the Workman—Shri Ajit Singh.

For the Management—Shri N. K. Zakhmi.

AWARD

(Passed on 16th of July, 2001)

The Central Government Ministry of Labour vide Notification No. L-12012/261/89-IR (B-I) dated 9-1-1990 has referred the following dispute to this Tribunal for adjudication :

“Whether the action of the State Bank of Patiala in dismissing Sh. Tikka Ram, Watchman-cum-Peon at T.I.E.T. Patiala branch w.e.f. 31-8-88 is legal and justified? If not, to what relief the concerned workman is entitled to and from what date?”

2. The case of the workman in brief is that he was appointed as watchman-cum-peon at Samana branch of State Bank of Patiala. He was charge-sheeted by the Regional Manager Patiala on 2-9-1987. He gave reply to the charge sheet but the disciplinary authority, without considering his reply, initiated departmental enquiry against him. During the course of enquiry the copies of the documents relied upon by the management were not given to him. Opportunity to cross-examine the departmental witnesses was not given by the enquiry officer. The enquiry officer arrived at his findings against the workman and submitted his report disciplinary authority. The finding of the enquiry officer was based on surmises and conjectures. His report was perverse. The disciplinary authority without considering the facts and circumstances of the case issued notice of the proposed punishment of dismissal to the workman. The workman submitted his reply but his reply was not considered by disciplinary authority and dismissed the workman from service on 31-8-88. The dismissal order passed by punishing authority was illegal, arbitrary and against the principle of natural justice. The enquiry was not conducted by enquiry officer fairly and properly. The appeal was filed by the workman against dismissal order which was dismissed by appellate authority. The workman has requested that the dismissal order be quashed and the management be directed to reinstate him with continuity of service and full back wages, alongwith other incidental benefits.

3. The management has submitted its written statement alleging that the claim of the workman is not maintainable because of non-joinder and mis-joinder of the parties. The workman was guilty of serious misconduct. On the basis of that misconduct he was charge sheeted. The charges were mentioned in the charge sheet dated 2-9-1987. He was guilty of mis-appropriation of public money. He had lowered the image of the management in the eyes of the public, so, the departmental enquiry was initiated against him. During the course of enquiry the opportunity to cross-examine the departmental witnesses was afforded to the representative of the workman. Due opportunity was also accorded to him to examine, pursued and take notes of the relevant record and documents. The enquiry was conducted by the enquiry officer in fair and proper manner. The enquiry report was submitted by him to the disciplinary authority on 26-6-1988. The charges levelled against the workman were fully proved. Consequently the notice of the proposed punishment of dismissal was given to the workman. The reply filed by the workman was considered by the disciplinary authority who found the reply unsatisfactory, therefore, the workman was dismissed from service on 31-8-1988 by disciplinary authority. The workman aggrieved by the order of the disciplinary authority filed an appeal before appellate authority. The personal hearing by appellate authority, was given to the workman. After considering the whole record of the enquiry and the explanation given by the workman, the appellate authority rejected the appeal. The action taken by the management in dismissing the workman was legal, just and proper and in accordance with the rules and regulations applicable to the employees of the bank. Therefore the claim

of the workman deserves to be dismissed with heavy cost

4 The workman has filed replication which has not been signed by the workman or by the General Secretary of Staff Union. In this replication the facts pleaded in the claim statement have been reasserted. No new fact has been pleaded in replication.

5. In this case the date of appointment of the workman and the fact of dismissal and rejection of appeal are admitted facts.

6 The workman has filed his affidavit (Ex. W1) and the management has submitted the affidavit of Deputy Manager Shri Om Parkash MW1 and retired chief manager K. D. Thivedi (Ex. MW2). Enquiry file has been submitted by the management which has been exhibited as Ex. M2. It contains 88 pages. The workman has deposed in his affidavit that he was not allowed to cross-examine the departmental witnesses Avinash Kumar and the opportunity to cross-examine the other witnesses was not given by the enquiry officer during the course of enquiry proceedings. The witnesses of the management have deposed that the opportunity to cross-examine the departmental witnesses was given to the workman. The first witness Pritam Singh PW1 was examined on 30-11-1987. On that day, the workman attended the enquiry proceedings but his representative was absent. The workman requested to give him time in order to bring his representative. The time was granted by the enquiry officer but the workman and his representative did not turn up and the statement of Pritam Singh was recorded on that day. Thereafter the statement of Avinash Kumar was recorded in the absence of the workman because he did not turn up. The witnesses Raj Kumar Goel PW3 and Ajmer Singh PW4 were also examined. The workman turned up on that day at 3.15 P.M. His representative Shri Gurbaksh Singh was not present and the workman intimated the enquiry officer that his representative could not come to participate in the proceedings as he had some urgent piece of work. The case was not adjourned by the enquiry officer and Shri Ruldu Khanna PW5 was examined in the presence of the workman. Workman was directed to cross-examine Shri Ruldu Khanna but he showed his inability to cross-examine the witness in absence of his representative.

7 The next date of hearing was fixed 1-12-1987 and 2-12-1987. On these dates the witnesses of the management were examined but the representative of the workman was absent. Reasons of his absence was shown by the workman that the representative was busy in some urgent work. The conduct of the workman and his representative is not reasonable. Their conduct shows that they were not participating deliberately in the enquiry proceedings, so it can not be inferred that the proper opportunity to cross-examine the witnesses was not given to the workman. If his representative was busy in some urgent work, he should have attended the proceedings and should have requested to the enquiry officer for adjournment explaining the unavoidable circumstances. The statement of witnesses were recorded on 30-11-1987, 1-12-1987, 2-12-1987. On 14-12-1987, the workman informed to the enquiry officer that his representative

Gurbaksh Singh had refused to assist him in the enquiry. The proceedings were adjourned by the enquiry officer and the time was granted for the appointment of other representative whose name was Shri Brij Lal Sharma. On 17-12-87 Shri B. L. Sharma appeared in the enquiry as defence representative in order to assist the workman. On that day, Shri B. L. Sharma did not request the enquiry officer for the cross-examination of departmental witnesses which were examined earlier. He sought adjournment and the next date of hearing was fixed 8-1-1988 for defence witnesses. On 8-1-1988 defence witness Shri Ram Sarup Sharma was examined. After the cross-examination of the defence witnesses the representative of the workman closed his defence. If he had intention to cross-examine the departmental witnesses, he should have made request to the enquiry officer to give opportunity to cross-examine them. Under these circumstances, it can not be held that the proper opportunity to cross-examine the witnesses was not given by the enquiry officer.

8 During the course of arguments, the representative of the workman has referred rule No. 56(9) of Bank Service Rules and argued that two opportunities should be given by the enquiry officer for cross-examination. But under these rules there is no provision for giving opportunity to the workman without his request. The representative of the workman has also referred the case of K. Raja Rao Vs. Syndicate Bank (1999)(1) S.C.T. page 608 (Karnataka). In para 17 of this case law, the Hon'ble Karnataka High Court has held that proper opportunity for the cross-examination of the departmental witnesses to be given to the workman. If opportunity is not given, it will violate the principle of natural justice. But the facts of this case law are different from those of the case under consideration. In that case, the prepared statement of the witnesses were read out to the workman and he was directed to cross-examine the witnesses. In the case under consideration, the statements of the witnesses were recorded in the presence of the workman, and his representative Shri B. L. Sharma did not make request to the enquiry officer for recalling departmental witnesses for cross-examination. Thus, this case law is not applicable in this case.

9 The workman has deposed in his cross-examination that the opportunity for his examination in his defence was not given by the enquiry officer. As per provisions of Bank's service Rules, (page No. 679) the right has been given to the delinquent workman for his examination. On perusal of the enquiry proceedings of 8-1-1988, it is evident that the enquiry officer asked the workman whether he wanted to record his statement, the workman submitted that he did not want to record his statement today. He wanted to submit his written briefs in his defence. The request of the workman was acceded by the enquiry officer. Therefore, the non-examination of the workman does not affect the conduction of the enquiry.

10 It has been argued on behalf of the workman that the copies of the documents relied upon by the management were not supplied to the man. In support of this argument the case of Kashi Nath Dikshita Vs. Union of India and others (1986(2) S.J.R. page 620 S.C.) has been referred. In this case law the copies of the statements of the witnesses recorded

during the course of preliminary enquiry and the list of documents mentioned in the charge sheet were not supplied to the delinquent workman and he was allowed to inspect documents and take notes, but the request for engaging a steno turned down. The number of witnesses was 38 and 112 documents running into hundred of pages were produced. Under these circumstances, their Lordship of the Supreme Court have held that the provisions of Article 311(2) of Constitution of India has been violated by the management. Rule 33 of Bank's Service Rules has also been referred by the representative of the workman. On going through the enquiry proceedings dated 11-11-1987, it is evident that the copies of the list of the witnesses and documents (Ex. P. 12 & P. 13) were given to the workman for his reference and record. The deposition of the witnesses were explained to the workman in local language. This fact has been noted in the enquiry proceedings. Therefore, this case law is not applicable in this case. The representative of the workman was also allowed by the enquiry officer to take the notes of the documents. The notes were taken the representative of the workman, and he did not make any complaint to the enquiry officer about his inability to take notes of any documents. Therefore, no prejudice has been caused to the workman in his defence.

11. The copy of the enquiry report and the copies of the order of the disciplinary authority and appellate authority have been submitted by the management. It has been argued, and has been pleaded in the claim statement, that the personal hearing were not given to the workman by these authorities to the workman. On going through the proceedings of the enquiry file, it reveals that the opportunity of personal hearing was given by all these authorities to the workman. The orders passed by these authorities are elaborate and speaking ones. So it can not be held that the proper opportunity to defend the workman was not given to him. Every page of the proceedings has been signed by the workman and his representative and this fact has been recorded on the last page of the proceedings.

12. It has been pleaded in the claim statement and has been argued by the representative of the workman that the findings of the enquiry officer is not based on any convincing evidence. The findings of enquiry officer is perverse. On going through the enquiry report, it is found that the enquiry officer had discussed the evidence properly and his findings are based upon the evidence adduced during the course of enquiry. It has also been argued that punishment of dismissal is disproportionate to the alleged misconduct. In support of the case of the workman, the case of *M/s. Kardaha & Co. Ltd. Vs. the workman* (AIR 1964 S.C. 719) has been referred on behalf of the workman. In this case Their Lordship has held that "an industrial tribunal will not interfere with the action of the management in dismissing its employees after holding an enquiry into the alleged misconduct unless it is shown that the management has not acted in good faith, or that the dismissal amounts to victimisation or unfair labour practice or the management has been guilty of basic error, for violation of the principle of natural justice, or when on the material

the findings is completely baseless or perverse". Keeping in view the law laid down by Their Lordships, the material placed in the case under consideration has been perused and considered.

13. In para 9 of the claim statement, it has been pleaded that the work and conduct of the workman was found praiseworthy when he was posted at Samana Branch. During his posting at Samana Branch, he found an envelop containing Rs. 1400 which restored to the owner of the envelop. This fact has not been considered by the punishing authority while passing punishment order. The charge sheet has been exhibited as Ex. M2. First charge relates to the purchases made by the workman on credit from M/s. Puri General Store who was the customer of the bank. The workman borrowed Rs. 300 in cash from that customer. The second charge relates to M/s. Bajwa Gun House from where certain articles worth Rs. 163 were purchased by the bank. The cheque was issued in the name of the parties. But the workman did not handover that cheque to the parties and reported to the bank authorities that officials of M/s. Bajwa Gun House required cash payment instead of cheque. The bank authorities gave to the workman an amount of Rs. 163 for making payment to M/s. Bajwa Gun House but that amount was not paid to Gun House and was misappropriated by the workman. Third charge relates to the non-deposit of two instalments amounting to Rs. 400. First instalment of Rs. 200 was paid to the workman by guarantor of the borrower to be deposited in Agricultural Term Loan account. That amount was not deposited by the workman and misappropriated by him. The second instalment of Rs. 200 was given to the workman for deposit in term loan account but that amount was also not deposited by the workman, and he utilised that amount himself. Fourth charge relates to his misbehaviour with the bank officer. These charges have been proved by cogent evidence adduced in the enquiry. Keeping in view the gravity of the charges levelled against the workman the incident of restoration of the envelop containing Rs. 1400 has no significance. At a particular spell of time one person may be honest and after some time he may become dishonest subsequently. The workman was running in in-debtedness and he consequently misappropriated money of the customer of the bank. This misconduct of the workman has lowered down the image of the bank in the eyes of the public. Keeping in view the charges levelled against the workman the punishment of dismissal can not be held to be harsh and disproportionate.

14. This Tribunal can not act as an appellate authority of the management to interfere with the findings and the quantum of the punishment without any reasonable ground. In this case the proper and fair opportunity to defend the workman himself has been given during the course of enquiry, and the principle of natural justice has not been violated by the management. Consequently the dismissal of the workman from service cannot be held illegal and unjustified. Under these circumstances, the workman is not entitled to get any relief from the management.

15. On the basis of discussions made in preceding paragraphs, the reference is answered that the action of the management of State Bank of Patiala in dismissing Shri Tikka Ram, Watchman-cum-peon at

T.I.E.T. Patiala branch w.e.f. 31-8-1988 is legal and justified. The workman is not entitled to get any relief from the management. Both Parties shall bear their own cost of proceedings. Appropriate Govt. be informed.

Chandigarh.
16-7-2001

B. L. JATAV Presiding Officer

नई दिल्ली, 10 अगस्त, 2001

का.आ. 2268— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूच में, केन्द्रीय सरकार उत्तरी रेलवे के प्रबंधन के प्रमुख निरोधकों और उनके कर्मकारों के बीच, अनुसूच में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक प्रबंधन/प्रमुख निरोधकों/चण्डीगढ़ के पंचाट की प्रकाशित कम्पनी है, जो केन्द्रीय सरकार को 09-08-2001 का प्रकाशित था।

[स.ए.नं-41012/95/88-डी-2(बी)/आई आर(बी-1)]
अजय कुमार, डेस्क अधिकारी

New Delhi, the 10th August, 2001

S.O. 2268.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Northern Railway and their workman, which was received by the Central Government on 09-08-2001.

[No. L-41012/95/88-D-2(B)/IR(B-I)]
AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE SHRI B. L. JATAV, PRESIDING
OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, CHANDIGARH

Case No. ID 112/89

Shri Lal Chand son of
Shri Ramji Dass,
H No. 499/1, Sita Nagar,
Behind Hotel Shiraz,
Ludhiana.

. Workman.

Vs.

Divisional Rly. Manager,
Northern Railway,
Ferozepur.

. Management.

APPEARANCES :

For the Workman : Shri B. N. Sehgal.

For the Management : Shri P. P. Khorana.

AWARD

(Passed on 18th of July, 2001)

The Central Government vide Gazette Notification No. L-41012/95 88-D-2(B) dated 21st July, 1989 has referred the following dispute to this Tribunal for adjudication :

“Whether the action of DRM, Northern Rly., Ferozepur, in dismissing Shri Lal Chand, Ex-Store Clerk from 9-9-1985 is justified? If not, to what relief he is entitled to?”

2. The case of the workman in brief is that he joined the services of the clerk with Northern Railway on 2-8-57. When he was working at Ludhiana, he applied for 45 days leave w.e.f. 2-11-1976 to 16th December, 1976 and the leave at that time was already at his credit. He was to report for duty on 17-12-1976 but due to the circumstances beyond his control he reported for duty on 19-12-1976. He was not allowed to perform his duties despite many requests and representations. The Rly. Admn. did not give any reply to his requests and representations, so, he approached to the Labour Court, Jalandhar on 27-9-1977 for the payment of his salary. The Rly. Admn. issued a charge sheet on 10-11-1977 for his alleged absence from duty on the charges which were baseless and false. He was promoted and transferred from Ludhiana to Amritsar vide letter dated 22-1-77 but he received promotion order on 5-12-1977. He submitted his representation dated 8-12-1977 against his transfer and requested to be retained at Ludhiana. He also requested for the issue of transfer pass and relieving letter so as to enable him to proceed to Amritsar. He refused promotion and request for his retention in Ludhiana by submitting his representation dated 30-10-1982 which was recommended by the then Corriage and Wagon Supdt., Ludhiana. But the Rly. Admn. did not accept his representation and the domestic enquiry was initiated against him.

3. The charge sheet was given to him on 11-10-78. Seven enquiry officers were appointed. Six enquiry officers did not proceed with the enquiry, whereas, the workman attended on every date of hearing. Seventh enquiry officer Shri K. K. Khanna proceeded with the enquiry. He did not conduct enquiry in fair and proper manner. He was not allowed to take the assistance of defence counsel. He was also not allowed to inspect the relevant record of the enquiry. The enquiry officer proceeded ex-parte against the workman on first date of hearing i.e. 9-9-1985 without giving the proper opportunity to the workman to defend himself. His services were terminated illegally, arbitrarily and wrongful by the Divisional Mechanical Engineer, Northern Rly., Ferozepur vide his order dated 9-9-1985. The workman filed appeal which was also rejected by D.R.M., Northern Rly., Ferozepur Cantt.

4. The order of the dismissal has been challenged by the workman on several grounds. He has pleaded in his claim statement that the departmental enquiry was held after the lapse of nine years, from the date of alleged misconduct. The charge sheet was ill drafted and the list of witnesses and documents were not authenticated properly by issuing officer. The witnesses were examined without giving prior notice to the workman. He was not given due opportunity to defend himself during the course of enquiry. Prior to passing the dismissal order, the show cause notice and the

opportunity of personal hearing were not given to the workman by the disciplinary authority or by the appellate authority. The management has not followed the principle of natural justice and the provisions of Discipline and Appeal Rule, 1968 during the course of domestic enquiry. The dismissal order of the workman is illegal and against the principle of natural justice. That dismissal order be set aside and the management be directed to reinstate the workman with continuity of service and full back wages, alongwith other consequential benefits and interest @ Rs. 12 per cent per annum.

5. The management has filed its written statement alleging that the allegations made in the claim statement are wrong and false. Leave was not sanctioned to the workman by competent authority. His leave application was rejected by the then Wagon Repair Foreman. The intimation of the rejection of the leave application was communicated to the workman on 30-11-1976 but he did not turn up for duty and remained absent with effect from 2-11-1976 unauthorisedly. The workman was promoted to the post of senior clerk under the control of Head Train Examiner, Amritsar vide order dated 22-1-1977. The workman was advised vide letter dated 5-12-1977 to carry out his transfer and resume duties at Amritsar. The workman did not carry out the orders and continued to remain absent from duty. His representation for his retention at Ludhiana was rejected by the competent authority and the decision was communicated to the workman vide letter dated 20-3-1980 but he remained absent unauthorisedly from duty. Charge sheet was issued to the workman for his unauthorised absence. The disciplinary proceedings were launched against him during the month of October, 1977 but enquiry was delayed due to the dilatory tactics adopted by the workman. The procedure laid down under Rly. Servant Disciplinary and Appeal Rules 1957 was followed by the enquiry officer in the conduction of the enquiry. The workman remained absent w.e.f. 2-11-1976 to the date of his dismissal i.e. 9-9-1985. Therefore, he is not entitled to get any backwages for this period.

6. It has also been pleaded by the management that the workman had been serving with M's. Kansal Hosiery Mills Pvt. Ltd. Ludhiana during the period of his absence. This fact was confirmed by Superintendent of Police Ludhiana in the month of September, 1985. During the course of his unauthorised employment in that Hosiery Mill he issued certificate during the month of 1983 under his signatures. According to service rules a Government servant cannot do private service and carry on any business so long as he is an employee of the government. The claim of the workman is not maintainable which deserves to be dismissed without any relief.

7. The workman filed rejoinder to the written statement. He has denied the factum of his employment in Kansal Hosiery Mill Ludhiana and issue of certificate as alleged by the management in its written statement. Other averments made in the claim statement have been reasserted in the rejoinder filed by the workman.

8. In this case, the workman has filed his affidavit which is Ex. W1. The management has submitted the affidavit of Hans Raj clerk of DRM office which is Ex. M7. The management has also examined his representative Shri P. P. Khorama who has tendered documents relating to the departmental enquiry which have been exhibited as Ex. M1 to Ex. M6. The workman has deposed in his affidavit that he proceeded on leave for 45 days which was sanctioned by the competent authority. He had to report for duty on 17-12-1976 but he could not attend his duties on 17-12-1976. He reported for duty on 19-12-1976. So, his absence on 17-12-1976 and 18-12-1976 was considered as unauthorised absence by the competent authority. He was not allowed to join his duties after 19-12-1976 till his dismissal. The departmental enquiry was not conducted fairly and properly and he was not allowed to defend himself. Seven enquiry officers were appointed by the disciplinary authority. They could not conduct the enquiry expeditiously. The enquiry was held *ex parte* against him on 9-9-1985, after lapse of nine years. He was dismissed by the disciplinary authority illegally contravening the principle of natural justice. His appeal against the dismissal order was also rejected by the appellate authority without considering the facts and circumstances of the case. Therefore, his dismissal be set aside and he should be reinstated on the date of his dismissal.

9. The witness of the management Hans Raj has deposed that the workman remained absent from duty w.e.f. 2-11-1976. The leave applied for by the workman was not sanctioned by the competent authority and the decision in this respect was communicated to the workman on 2-11-1976. He was promoted and transferred to Amritsar but he did not report for duty to Head Train Examiner Amritsar and insisted for his retention in Ludhiana. Therefore, the departmental enquiry was held against the workman for his misconduct of unauthorised absence from duty. The enquiry was held according to the disciplinary rules but he did not attend the enquiry and he was dismissed by the competent authority.

10. In this case the management has produced the enquiry file and some important documents have been exhibited as Ex. M1 to M6. On perusal of these documents and the enquiry proceedings dated 9-9-1985 (Ex. M2) it is evidently proved that the proper procedure was followed in appointing the enquiry officer and in conduction of enquiry proceedings. The record of the enquiry proceedings reveals that the seven enquiry officers were appointed by the disciplinary authority but the enquiry could not be started due to the fault of the workman. He did not attend the enquiry at Amritsar. He insisted to hold enquiry at Ludhiana. The copies of the list of the witnesses and the documents were also supplied to the workman. The charge sheet was also served upon him. His letter dated 28-7-1985 reveals that the charge sheet was delivered to him and the notice of the appointment of Shri K. K. Khanna as enquiry officer was also communicated to him. The place of the enquiry was also intimated and the date of hearing fixed was also intimated to him. Opportunity to engage defence counsel/representative was also given to the workman but he could not engage his defence representative. He insisted to engage the

advocate as a defence representative. The management did not permit him keeping in view the provisions of Railway Servant (Discipline and Appeal) Rules 1968. The Ex. M1 to Ex. M6 reveals that the workman did not attend the enquiry deliberately. Therefore, it can not be held that due opportunity to defend him was not given by the enquiry officer.

11. The representative of the workman has cited the case of Harbhajan Singh Vs. State of Punjab and others (1992) S. L. R. page 135 Pb & Haryana), State of Madhya Pradesh Vs. Bani Singh and another 1990 (2) R.S.J. 38 S.C., in which it has been held that if departmental enquiry is held belatedly, and the delay is not attributable to the delinquent, the enquiry proceedings shall be vitiated. But in the case under consideration the workman is responsible for delay in conduction of the enquiry. He did not attend the enquiry and insisted to change the place of enquiry from Amritsar to Ludhiana, from where he was transferred on promotion. Therefore, these case laws do not assist the workman.

12. The representative of the workman has also cited the case of Harbhajan Singh Vs. State of Punjab and others 1992(2) S. L. R. 135 Pb & Haryana, and U. P. State Road Transport Corpn. Vs. Muniruddin [199(2) R.S.J. 696 Supreme Court] and R. K. Vashshth Vs. Union of India and others [1993(23) Admn. Tribunal cases 444(ii) Supreme Court. In these case laws it has been held that the non-supply of copies of documents relied upon by the management and enquiry report to the workman shall vitiate the enquiry proceedings. On perusal of the enquiry file and the documents Exhibited as Ex. M1 to Ex. M6 it is evident that the copies of the documents relied upon by the management was given to the workman and the copy of the enquiry report was also given to him. Therefore these cases do not support the case of the workman.

13. The representative of the workman has cited the case of Ram Chander Vs. Union of India [1986 (2) All India Services Law Journal 249] in which Their Lordships of the Supreme Court has held that the appeal of dismissed workman should be considered by the appellate authority by marshaling the evidence on record, and applying mind to misconduct of the delinquent. If it is not done by the appellate authority the order passed by the appellate authority is bad in the eyes of law. But in this case, this case law is not applicable. The order was passed by appellate authority on 17-3-1986. This order has been written expressly considering the alleged misconduct of the workman and the evidence adduced during the course of enquiry. Therefore, it can not be said that the order passed by the appellate authority is non-speaking.

14. The representative of the management has cited the case of Major U. R. Bhat Vs. Union of India (AIR 1962 S. C. 1344), the case of Motors Industries Co. Vs. Shekh Mohammed 1978 Lab. I.C. 1335 Karnataka and the case of Shiv Sampat Lal Vs. State of U.P. and others 1983 Lab. I.C. 324 Allahabad and the case of Associated Cement Co. Vs. T. C. Srivastva and others (1984 Lab. IC 864 S.C.). In these case laws the law has been laid down that if the date of hearing has been communicated to the workman but he does not attend the

departmental enquiry on the date fixed by the enquiry officer, the enquiry officer may proceed ex parte against the delinquent and under these circumstances, the delinquent may be dismissed by the disciplinary authority. The copies of the documents Ex. M1 to Ex. M6 indicate that the notice of the next date of hearing i.e. 9-9-1985 was communicated to the workman and Rly. pass was also issued to him. He was also intimated that the permission for the inspection of additional documents had also been granted to him but the workman did not attend the enquiry proceedings on 9-9-1985 and the statements of the witnesses were recorded by the enquiry officer. In the context of these case laws cited by the management, the action taken by the enquiry officer ex parte against the workman can not be held to be illegal. In this case, the principle of natural justice has been followed by the management in holding the departmental enquiry against the workman, therefore, it can be held that the action taken by the management to dismiss the workman was justified and consequently he is not entitled to get any relief from the management.

15. On making the appreciation of the evidence adduced by both the parties, this Tribunal arrived to the conclusion that the action taken by the management in dismissing the workman is justified. Therefore, the reference is answered by holding that the action of DRM Northern Railway Ferozepur in dismissing Shri Lal Chand from 9-9-1985 is justified. Consequently, the workman is not entitled to get any relief from the management. Both parties shall bear their own costs. The reference is answered accordingly. Appropriate Government be informed, Chandigarh.

Dt. 18-7-2001.

B. L. JATAV, Presiding Officer.

नई दिल्ली, 17 अगस्त, 2001

का.अ. 2269.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में, केन्द्रीय सरकार रिजर्व बैंक ऑफ इंडिया के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2001 प्राप्त हुआ था।

[स एल-12011/9/89-डी. IV. (ए)/आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 17th August, 2001

*S.O. 2269.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Reserve Bank of India and their workman, which was received by the Central Government on 16-8-2001.

[No. L-12011/9/89-D. IV(A)/IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM LABOUR COURT, JABALPUR

Case No. CGI/LC/R/107/88

Presiding Officer : Shri K. M. Rai

The Secretary,
Reserve Bank Employees Association,
Mandir Marg,
Sitabuldi,
Nagpur.

.... Applicant

Versus

The Manager,
Reserve Bank of India,
Nagpur.

.... Non-applicant

AWARD

Passed on this 18th day of July, 2001

1. The Government of India, Ministry of Labour vide order No. I-12011/9/89-D.IV(A) dated 4-10-88 has referred the following dispute for adjudication by this tribunal—

"Whether the order of the Reserve Bank of India, Nagpur No. 26/Samanya-22.87/88 dated 17-7-87 regarding Table Assistants in Note examination Section is legal and justified? If not, to what relief are the concerned workmen entitled?"

2. The case for the Union is that the management of Reserve Bank of India, Nagpur effected the change in the service condition applicable to the 18 table assistants working in the bank's cash department at Nagpur by order No. 26/Gen. 22/87-88 dated 17-7-87 in violation of the provisions of Section 9-A of the I.D. Act, 1947 read with rule-34 of the I.D. (C) Rules 1957. The Reserve Bank of India has a sole right to issue bank note and is therefore required to provide exchange facilities to members of general public. The bank receives notes tendered in large quantities by Commercial Banks, Railways, P & T, Government Departments, Statutory Bodies and Public for Credit. For the proper exercise of these functions, the Bank has deployed 463 Class III employees at Nagpur office to attend for processing and examination of currency notes and other duties to carry out the functioning of the cash departments. These 463 Class III employees are called coin note examiner Grade II as under :—

For Note Examination work	350
Table Assistants to Note Examination sections	18 (for 18 officers, Assistants provided)
At various vaults as Assts. to officers	4
At claims section	6
At coins section	4
Weightment Asstt. to Officer	1
Assistant at PA's Desk	1
Admn. Cell	4
M.P. Units (2) officers Assistant	2
Remittance Pool	22
Additional office Building	2
Leave Reserve	62
	476
(—) vacancies not filled up	13
	463

3. It is further alleged by the Union that the aforesaid employees have not been given any promotion by the management since the date of the appointment. The discontent arose amongst the employees and therefore the matter was referred to the National Industrial Tribunal for adjudication regarding the wage revision and service condition etc. The national industrial tribunal directed the Bank to improve State of affairs. In view of this direction, the Bank reorganised the cash department suo-motto w.e.f. 2nd July 1984. The existing 10 Note Examination sections at Nagpur office were earlier placed in charge of 10 officers. As a sequel to the reorganisation of the cash department, now 18 officers have been placed in charge of the said 19 Note Examination Sections, w.e.f. 2-7-84 and were provided 18 full time clerical assts. i.e. table assts. without disturbing the established ratio of 1 : 1 as

regards Asstt. Treasurer and clerical assts. Each officer (Prior to 2nd July, 1984) was provided with one full time clerical assistant. The clerical assistant is called as Table assistant. He is assigned with multifarious clerical duties including writing and maintenance of Books. This practice of providing a full time table assistant to the officer in charge of Note Examination section is in vogue since 1982 at Nagpur office. It is backed up with statutory provisions contained in para 66 chapter III of the Banks issue Department Manual. An extract of the said paragraph is annexured herewith as Ex-B. The cash department was reorganised w.e.f. 2-7-84 as stated earlier. Instead of 10, now 18 officers (assistant treasurers) were placed in charge of 10 Note Examination Sections at Nagpur office. It may be pointed out that the foregoing charges not being prejudicial to the workmen concerned were made by the Bank sue moto and there were no consultations/agreement/settlement over the issue with any of the Employees Unions/Associations in the Bank.

4. Further the following administrative follow up action of the Bank establishes beyond any doubt that these 18 posts of Table Assistants created after 2-7-84 were on full time basis.

5. Union further contends that on 12-9-86 the Central Office of RBI, on the recommendation of RBI, Nagpur dated 14-8-85, recommended the re-organisation of note examination section including 18 posts of table assistants. These 18 posts of table assistants had been treated as regular post like all other posts and consequently leave reserves also sanction against the same. On 17-7-87, the currency officer of RBI Nagpur issued an order reducing 18 posts of table assistants from full time to half day basis and requiring them to perform half days quota of examination work in addition to the duties allotted to them. The other table assistants working in cash department under the supervision of various assistant treasurers are also on full time basis and they have not been assigned any other duty. In this way the order in respect of 18 table Assistants are discriminatory. The management has arbitrarily changed the service condition of 18 full time table assistants. Inspite of the protest of the union, the management did not change its order in question. The order of the management dated 17-7-87 deserves to be quashed.

6. The case for the management is that the Union is not a representative Union at Nagpur as it does not have adequate following among the Class-III employees at Nagpur office. The present dispute is not covered under the provision of Section 2(k) of I.D. Act, 1947. The order of Bank dated 17-7-87 has not changed the service condition of 18 table assistants. It is an office order dealing with the distribution/location of the work in the cash department of the bank's Nagpur office amongst coin examiners Grade-II. It is in respect to the efficiency administration and functioning of the Bank. A table assistant was given from 1974 to assist the Assistant treasurer for writing books and attend to other work like any other centres in the Nagpur office. Right from the beginning the table assistants in the Nagpur office had been doing the 1/2 day days quota of coin examination work on the days on which they have worked as table assistants. It was always regarded as a part of his duty to do half days quota work. After the re-organisation of the cash department in July 1984, the bank allowed one more table assistant where 2 Assistant treasurers were working. In this way there was a substantial decrease in the work allotted to the table Assistants and under utilisation of available man-power. Taking this view into consideration, the Nagpur office vide order 17-7-87 ordered the table assistants posted in the Note Examination Centres to do half days quota to note examination work as they were doing earlier. There was no change either in duties or service conditions of table assistants and therefore the Bank has not committed by breach of the provisions of Section 9A of the I.D. Act, 1947. In view of these facts, the Union is not entitled to any relief as claimed by them. The reference therefore deserves to be answered in negative.

7. The following issues arise for decision in this case and my findings thereon are noted hereinafter :—

- Whether the management has changed the service condition of the 18 table assistants vide order dated 17-7-87 in violation of the provisions of Section 9A of the I.D. Act, 1947?
- Relief and costs?

8. Issue No. 1 :

The Union has challenged the office order of RBI, Nagpur dated 17-7-87 alleging to have changed the service condition to table Assistants working in Nagpur office. In this connection, the management has contended that it was observed by the office that the examination of notes etc. for half a day by the table assistants attached to note examination section are not being done for sometime past which has resulted in under utilisation of available manpower. It was therefore decided that all the table assistants posted in the note examination sections will hereafter be allotted half days quota to note examination etc. This step was taken by the management with a view to the proper utilisation of manpower. Examination of notes by coin note examiner Grade II is the basic function to be attended by them in the cash departments in note examination centre. While assisting the Assistant treasurer, the table assistants does not cease to be coin note examiners. There is no separate cadre of table assistants in Nagpur office. Class-III staff in non-clerical cadre in note examination section are coin note examiners Grade II and Grade I. Considering the work of helping the Assistant treasurer in the Note Examination Centre, table Assistants were allotted half day quota of note examination on week days and quarter quota on Saturdays when the Bank functions for half day only. This is the service condition of coin note examiners, assisting the Asstt. treasurers as table assistants, since 1973 in all offices of the bank including Nagpur office. This practice was involved since 1973 and the office order of 17th July 87 was not new which could be said to have brought any change in the service condition of the table assistants.

9. The Assistant Treasurer is officer in Grade-A. A Table Assistant, who is a coin note examiner Grade II is given to Asstt. treasurer when necessary to assist him in writing books and to attend the other miscellaneous work. In this way, the work does not last for the whole day. The Table Assistant, who is a note Examiner Grade II was allotted half days quota during which time he had no work as a table assistant. The note Examining Sections were considered to be unduly large and therefore it was decided to be re-organised as to ensure better protection, tight security and more effective supervision in order to achieve the better performance and to provide promotional opportunity to non-clerical staff in the issue department to the post of Assistant Treasurer in officer grade. In view of this fact, the posts of note Examiners were reduced in order to afford promotional opportunity to the officer grade. In no way, any change was effected in the service condition of the table Assistants. The coin Note Examiner acting as Table Assistant was required to do half days note examination work in addition to the work attended to by him in helping the Assistant Treasurer of the Note Examining Centre in view of the letter dated 8th October 1973 issued by the Central office of the Reserve Bank of India. By the issue of letter dated 17-7-87, no change was effected in the service condition of table Assistant. A table Assistant in Nagpur office was provided from 1974 to assist the Assistant treasurer to attend the work like other centres. The Table Assistants in the Nagpur office and elsewhere have been doing the half days quota of note Examination work while simultaneously working as table assistant. It has always been a part of the duty of Coin Note Examiner acting as Table Assistant to do half days quota work till 1973. In this way the management did not violate the provisions of Sec-9-A of I.D. Act, 1947 by changing the service condition of the Table Assistants working in Nagpur office of Reserve Bank of India.

10. It is well established principle that it is within the managerial discretion of an employer to organise and arrange his business in the manner he considers best. So long it is done in a bona fide manner it will not be proper to hold that the employer in doing so has violated the provisions of I.D. Act, 1947. It is for the employer to decide whether the particular policy in running his business will be profitable, economy and convenient. So long such decision of the employer is not actuated by any consideration for victimisation or any unfair labour practice, then their act cannot be held to be illegal. In the instant case, the management has simply continued the implementation of service condition prevalent in Nagpur office since 1973 with respect to the half day work in note examination section by Table Asstt. I do not find that by order dated 17-7-1987 the Bank has changed the service condition of the table assistants in violation of the provisions of Sec-9-A of the I.D. Act, 1947. This order is only with a view to ensure the maximum utilisation of manpower in the Bank. It is within the competence of

the management to allot the duty in respect to its employees for taking proper work from them. In the present case, no new service condition has been added in the case of table assistants. It is therefore held that the management's order dated 17-7-1987 with respect to the duty to be performed by the Table Assistants is perfectly just and proper. This issue is answered accordingly.

11. Issue No. 2 :

In view of the foregoing reasons, the Union is not entitled to any relief as claimed by them. The order in question passed by the management with respect to the work of table assistant is perfectly legal. The reference is accordingly answered in favour of the management and against the workman—

12. Copy of the award be sent to the Ministry of labour, Government of India, as per rules.

K. M. RAI, Presiding Officer.

नई दिल्ली, 17 अगस्त, 2001

का. आ. 2270.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पण्डियन ग्रामा बैंक के प्रबंधन के संघर्ष निोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चेन्नई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2001 को प्राप्त हुआ था।

[सं. एल-12011/20/99-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 17th August. 2001

S.O. 2270.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Pandyan Grama Bank and their workman, which was received by the Central Government on 16-8-2001.

[No. L-12011/20/99-IR(B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Monday, the 6th August, 2001

Present : K. KARTHIKEYAN,

Presiding Officer

INDUSTRIAL DISPUTE NO. 271/2001

(Tamil Nadu State Industrial Tribunal I.D. No. 289/99)

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Claimant, the Asst. General Secretary, Pandyan Grama Bank Employees Association and the Management of the Pandyan Grama Bank, Virudhunagar.

BETWEEN

The Assistant General Secretary— I Party/Claimant
Pandyan Grama Bank Employees
Association
Virudhunagar.

AND

The Chairman -- II Party/Management
Pandyan Grama Bank,
Virudhunagar.

APPEARANCE :

For the Claimant : M/s P.V.S. Giridhar
& Ranjani Ramadas
Advocates

For the Management : Mr. N.G.R. Prasad
Advocate

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub sec. (1) and sub sec. 2(A) of sec. 10 of Industrial Dispute Act, 1947 (Act 14 of 1947), have referred concerned Industrial Dispute for adjudication vide Order No. L-12011/20/99/IR(B-1) dated 26-10-1999.

This reference was first made to the Tamil Nadu State Industrial Tribunal where it was taken on file as I.D. No. 289/99. When it was pending therefor adjudication, as per the orders of the Central Govt. this case has been transferred to the file of this Tribunal. On receipt of records from that Tribunal, the case has been taken on file as I.D. No. 271/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 12-2-2001 with their respective parties. On receipt of notice from this Tribunal, the counsel on record on either side were present along with their respective parties and prosecuted this case further.

When the matter was transferred from the Tamil Nadu State Industrial Tribunal, the matter was pending for filing the Counter Statement of the II Party/Management. They filed the Counter Statement on 26-02-2001. Then by consent of counsel on either side documents were marked as Ex. W.1 & W. 2 and M1 to M5.

In the schedule of reference made in the order of the Central Government the number of temporary messengers and their names who sought the relief under this dispute have not been given. The learned counsel on either side have made a joint endorsement on the back side of the order of reference stating that "The reference relates to 33 persons whose names are listed in the Annexure to the claim statement".

Having no oral evidence on either side, the learned counsel on either side advanced their respective arguments.

When the matter came up before me for final hearing on 06-07-2001, upon perusing the Claim Statement, Counter Statement, other material papers on record, upon perusing the documentary evidence let in on either side and upon hearing the arguments advanced by the learned counsel on either side and this matter having stood over till this date for consideration this Tribunal has passed the following :—

AWARD

The Industrial Dispute referred to in the above order of reference by the Central Govt. for adjudication by this Tribunal is as follows:—

"Whether the action of the Management of Pandyan Grama Bank in denying the wages to the temporary messengers at pro-rata basis with effect from 29-01-1993 i.e. date of settlement is justified and legal? If not, to what relief the concerned workman are entitled?"

2. The averments in the Claim Statement are briefly as follows :

The Assistant General Secretary of Pandyan Grama Bank Employees Association, (herein after referred to as Petitioner) espousing the cause of Thirty three workmen as claimant has filed the Claim Statement. The temporary messengers working various branches of the II Party/Management Bank (hereinafter referred to as Respondent) were denied the benefits of regularisation for a long time. So an Industrial Dispute was raised before the Assistant Labour Commissioner, Central II Chennai. Following conciliation, a settlement was signed by the Petitioner Association and the Respondent Bank under Section 12(3) of the Industrial Dispute Act on 29-01-1993, under which temporary messengers were divided into two panels viz. Panel A and Panel B. Panel A consisted of temporary messengers, who have put in more than 240 days of service, while panel B consisted of temporary messengers who have put in less than 240 days of service. There were 33 temporary messengers of whom 10 figured in panel A. Their services were regularised soon thereafter. The Respondent Bank promised to regularize the other messengers as and when vacancies arise. The messengers in Panel A & B were however, paid wages on consolidated basis at the discretion of the Respondent, contrary to clause (8) of the Settlement. The failure of the Respondent/ Bank to pay pro-rata wages to temporary messengers is illegal and contrary to the said Settlement. Hence, a petition was filed before the Assistant Labour Commissioner, Madurai seeking conciliation in respect of the same. The Respondent/ Bank through their reply dated 22-12-1998 admitted the violation and started paying the prorata wages prospectively. The Petitioner filed a rejoinder to the reply that pro-rata wages should be paid retrospectively i.e. from 29-1-1993, the date of settlement.

As the Respondent failed to concede the same, a failure report was submitted by the Assistant Labour commissioner. Thereafter, the Govt. was pleased to refer this as an industrial dispute for adjudication by this Tribunal. Under Clause 9 of the Settlement, it is clear that the Management has undertaken to pay wages on pro-rata basis from the date of the Settlement. Hence, it is prayed that this Tribunal may be pleased to direct the Respondent/Management to pay wages to the temporary messengers in Panel A & B, listed in the annexure hereto, with effect from 29-01-1993 with all consequential including all arrears following therefrom.

3. The averments in the Counter Statement of the Respondent are briefly as follows :—

At the time of Settlement i.e. 29-01-1993, the Service of 11 temporary messengers were required by the bank for whom pro-rata wages paid from 22-4-1993. The Petitioner Association pleaded the bank to engage the other temporary messengers-cum-sweepers as they are jobless and finding it difficult for their livelihood. On a sympathetic approach the bank had taken steps to create employment avenues by engaging them in Urban branches as additional hand apart from regular messengers, been though the bank is incurring heavy losses continuously. It is mutually agreed to pay Rs. 45/- per day as wages and the name of the temporary messengers-cum-sweepers were circulated to the branches for engagement by a Circular dated 6-1-1996 and subsequently by another Circular dated 30-12-1996. The amount so paid was agreed and no objection was raised by the petitioner Association till 4-3-1998. On 4-3-98, the Petitioner Association has given a representation wherein they have requested to increase wages of temporary messenger cum-sweepers in Panel B as that of Panel A. The said request was considered favourably and the wages was increased to Rs. 75/- per day. In the meantime, the Petitioner Association has filed Writ Petition before the High Court of Madras in W.P. No. 12707/98 for directing the Bank to pass orders on the representation of the Petitioner dated 4-3-98. The High Court of Madras by an order dated 21-8-98 directed the Bank to dispose of the said representation dated 4-3-98 within a period of twelve weeks. In order to avoid resorting to revision then and there and to have a permanent solution in this matter, the Respondent paid pro-rata wages from 9-9-98. In the Petitioner's representation dated 4-3-98, they have requested only to increase the wages of the Messengers in Panel B on pro-rata wages and not requested for retrospective effect. The bank have also regularized the service of 21 temporary messengers out of 33 and appointed them as permanent staff of the bank. It is denied that the temporary Messengers in Panel A are not paid pro-rata wages. They have been paid pro-rata wages from 24-4-98 i.e., immediately after the date of Settlement i.e. 29-1-93

The claim itself is barred by limitation. The members did not objection to the consolidated payment from the date of joining after the Circular dated 6.1.96 till 4.3.98 and received the same without any objection. From 9.9.98 Panel B employees are getting prorata wages. When the demand raised by the Petitioner Union before the Management itself is not for arrears and that the dispute has been raised belatedly, the relief prayed for by the Petitioner cannot be granted. The plea of retrospective benefit was claimed for the first time before the Conciliation Officer i.e. after a lapse of two and half years. Hence, the Tribunal may be pleased to dismiss the industrial dispute raised by the Petitioner Union.

4. Though it is mentioned in the Schedule of reference as temporary messengers, the number of list of aggrieved workmen and their names have not been furnished with the reference by way of annexure. When the matter was taken up for enquiry, this discrepancy in the reference of the industrial dispute to be adjudicated by this Tribunal has been noted and a joint memo by the counsel on either side has been filed requesting this Tribunal to read the reference after the words the 'temporary messengers to add the words "mentioned in annexure thereto" and to have the annexure containing names of the thirty three workmen to be added to the reference. That memo has been recorded.

5. The point for my consideration is —

“Whether the action of the Management of Pandyan Grama Bank in denying the wages to the temporary messengers at pro-rata basis with effect from 29-01-1993 i.e. date of settlement is justified and legal? If not, to what relief the concerned workman are entitled ?”

Point :

In the Counter Statement of the Respondent, it is stated that the Bank have regularized the services of 21 temporary messengers out of the 33 and appointed them as permanent staff of the bank. It is not disputed by the other side. Further, when the matter was came up for final hearing on 6-7-2001, the counsel for the Petitioner had made an endorsement in the Claim Statement of the Petitioner for restricting the relief claimed by stating 'the relief claimed with regard to 23 messengers who were already regularized and whose particulars furnished to-day will be restricted till the date of their regularization date.' On the side of the Petitioner the list contained names of 23 persons as temporary messengers, whose services had been regularised, has been filed. From this, it is seen that the persons mentioned under serial numbers 15, 25 to 33 are the temporary messengers, whose services have not yet been regularised by the Respondent/Bank. The claim made by the

Petitioner Union for the concerned workmen is based on Settlement dated 29-1-93. The xerox copy of that Settlement is marked as Ex. W1. It is seen from the terms of the Settlement that the temporary messengers employed by the Respondent/Bank have been divided into two groups as Panel A and Panel B. The temporary messengers who have put in more than 240 days since the date of their first engagement have been included in Panel A, while temporary messengers, who have put in service of less than 240 days, since their date of the first engagement have been included in Panel B. As per the terms of the Settlement under Clause 8, it is mentioned that 'until such time the services of the members of Panel A & B are regularized, they would be utilized in the leave vacancies/temporary increase in work etc. arising at branches/offices. Pro-rata wages would be paid for the services rendered. However, no claim of arrears would be entertained or services rendered in the past prior to the date of the Settlement. It is the contention of the Petitioner Union that as per the terms of the Settlement dated 29-1-93, pro-rata wages were not given to the temporary messengers under Panel B. It is the further contention of the petitioner that the failure of Respondent/Bank to pay pro-rata wages to temporary messenger is clearly illegal and contrary to the said Settlement and the wages to be paid to the temporary messengers on pro-rata basis from the date of Settlement. It is an admitted case that 23 out of 33 messengers listed in the annexure added to the Schedule of reference on joint memo filed by the counsel on either side have been regularized in service by the Respondent/Bank and they restrict their relief claim from the date of Settlement till the date of their regularisation. Though it is stated in the Claim Statement that the Respondent/Bank has not paid the wages to the temporary messengers on prorata basis, they have not stated in the Claim Statement that first they were paid consolidated pay of Rs. 45 per day, as per the Circular dated 6-1-96 and the same was increased to Rs. 75 per day to the temporary messengers cum sweepers in Panel B as that of panel A, on the representation given by the Petitioner Association on 4-3-98. This has been pleaded in the Counter Statement of the Respondent. That is not disputed by the Petitioner Association. It is also admitted that pursuant to the direction of the High Court in W.P. No.12707/98 to dispose of the representation made by the Petitioner on 4-3-98, the Respondent paid pro-rata wages to the temporary messengers from 9-9-98 Ex. M4 is the xerox copy of the letter dated 4-3-98 from the Pandyan Grama Bank Employees Association to the Chairman of Pandyan Grama Bank. In that letter the Petitioner Association has requested the Respondent Bank Management to increase the wages of temporary messengers in Panel B as in Panel A.

But they have not asked for increasing their wages to those temporary messengers with retrospective effect i.e. from the date of Settlement 29-1-93 under Ex.W1. In the Counter Statement itself, it is stated that the time of Settlement i.e. 29-1-93 the service of 11 temporary messengers were required by the bank and pro-rata wages were paid to them from 22-4-93. From the plea of their party, it is seen that bank the had engaged them as temporary messengers in urban branches as they were jobless and it was mutually agreed to pay Rs. 45 per day to them as wages as per the Circular dated 6-1-96. A xerox copy of the circular is Ex.M2. This is three years after the Settlement dated 29-1-93 under Ex.W1. This is not disputed by the Petitioner Association. Further on the representation made by the Petitioner Association under Ex.M4 dated 4-3-93 their consolidated pay of Rs. 45 has been increased to Rs. 75. This is also not disputed by the Petitioner Association. As it is contended in the Counter Statement of the II party (Respondent Bank, while accepting this consolidated payment as Rs. 45 as daily wages, which has been subsequently increased to Rs. 75 as represented by the Petitioner Association, no objection has been raised by the Petitioner Association and there was no claim for payment of wages on pro-rata basis with retrospective effect, i.e. from the date of Settlement under Ex.W1. Their claim of wages at pro-rata basis from the date of Settlement till 9-9-98, the date on which all the panel employees are getting pro-rata wages has been made for the first time by the Petitioner Association. Only when they raised the dispute before the conciliating authority, Assistant Labour Commissioner (Central), the Petitioner Association has raised to plea that the Respondent/Bank Management has violated Clause 8 of the Settlement and they prayed for the payment of wages at pro-rata basis to the temporary messengers on retrospective effect. That representation was made before the Assistant Labour Commissioner (Central), Chennai by the Petitioner Association for the first time in March, 1990, wherein they have admitted that wages were paid to the temporary messengers on consolidated basis. Having accepted the consolidated payment even subsequent to Ex.W1 without any objection, the Petitioner Association cannot claim now at the belated stage, the wages to the temporary messengers on pro-rata basis from the date of the Settlement dated 21-9-93 till 9-9-98. The learned counsel for the Petitioner Association would argue that the claim is being made by the Petitioner Association as a matter of right under the Settlement and what it is given under the Settlement cannot be taken on the basis of limitation as a belated claim. She would further argue that the right claim by the Petitioner Association is a determined claim under the Settlement and no limitation has been prescribed. In answer to this, the learned counsel for the

respondent would argue that the concerned workmen have joined in service only in 1996 and they claimed it as per the terms of the settlement of the year 1993 and the wages to be given to them from the date of their appointment but they have not demanded so in the representation through the Petitioner Association under Ex.M4. Further, the petitioner Union has not taken any exception to the Circular dated 6-1-96 under Ex.M2 whereby, the wages were paid to the temporary messengers at the daily rate of Rs. 45 and on the basis of the demand for an increase for the wages under Ex.M4 by the Petitioner Association, it was raised to Rs. 75 and all these consolidated wages given by the Respondent/Management to the temporary messengers long subsequent to Ex.W1 Settlement was accepted by the concerned employees as daily wages and they have not raised any objection at that time. Having accepted the said consolidated wages from 1996 till the Management themselves has given the pro-rata basis wages from 9-9-98, they cannot make a fresh demand for their payment with retrospective effect and they have no option to resile from what they have already accepted as consolidated daily wages. So, the claim of the Petitioner Union for payment of wages at pro-rata basis from the date of Settlement till the date of their regularisation in so far as 23 temporary messengers out of 33 persons listed in Annexure 'A' and for the rest till 9-9-98 cannot be granted.

6. Considering the arguments advanced by the learned counsel on either side, along with the documentary evidence available on either side it is seen that the arguments advanced by the learned counsel for the Respondent Bank is plausible and acceptable. It cannot be said that when a representation has been made by the Petitioner Association under Ex. M4 for the increase in wages to the temporary messengers, they were not aware of Clause 8 of Settlement under Ex.W1. They were rest content to the consolidated payment of Rs. 45 as daily wages for the temporary messengers in pursuance of Circular of the Management under Ex.M2 and subsequently the same has been enhanced by the Management to Rs. 75 per day on the representation of the Petitioner Association under Ex.M4. So it is not open to the Petitioner Association or for the concerned workman now to resile from their earlier acceptance of consolidated wages. So, under such circumstances, the claim made by the Petitioner Bank Employees Association on behalf of the concerned temporary messengers for the wages on pro-rata basis on retrospective effect cannot be considered as a justified one. So, the action of the Management of Pandyan Grama Bank in denying the wages to the temporary messengers at pro-rata basis with effect from 29-01-93 i.e. the date of Settlement is justified and legal. Hence, the concerned workmen are not entitled to any relief. Thus, I answer the point accordingly.

7. In the result, an award is passed holding that the action of the Management of Pandyan Grama Bank in denying the wages to the temporary messengers at pro-rata basis with effect from 29-01-1993 i.e. the date of Settlement is justified and legal. Hence, the concerned workmen are not entitled to any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 6th August, 2001).

K. KARTHIK FAN, Presiding Officer

Witnesses Examined :

On either side : None

DOCUMENTS MARKED

For I Party/Workman :

Ex. No.	Date	Description
W1	29-01-93	Xerox copy of the settlement between the Management and the Petitioner Union u/s. 12(3)
W2	Nil	Xerox copy of Equation Committee Report. Along with annexures.

For the II Party/Management:

Ex.No.	Date	Description
M1	09-01-93	Xerox copy of Memorandum of Settlement under section 12(3).
M2	06-01-96	Xerox copy of circular issued by Management.
M3	30-12-96	Xerox copy of circular issued by Management.
M4	04-03-98	Xerox copy of letter from the Petitioner Union to the Chairman, Pandyan Grama Bank.
M5	09-09-98	Xerox copy of the circular issued by the Management.

नई दिल्ली, 17 अगस्त, 2001

को.आ. 2271.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार फ़ेडल बैंक लिमिटेड के प्रबंधन के सबद्ध नियोजको और उनके कर्मकारों के बीच, अनबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय भूवनेश्वर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-8-2001 को प्राप्त हुआ था।

[सं. एल-12012/26/97-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 17th August, 2001

S.O.2271.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central

Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Federal Bank Ltd. and their workman, which was received by the Central Government on 16-7-2001.

[No. L-12012/26/97-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESHWAR

PRESENT :

Shri S. K. Dhal, OSJS, (Sr. Branch)
Presiding Officer, C.G I.T.-cum-Labour Court,
Bhubaneswar.

Tr. INDUSTRIAL DISPUTE CASE NO. 165/2001
Dated Bhubaneswar, the 31st July, 2001

Between :

The Management Branch Manager
Federal Bank Ltd.,
Ashok Nagar,
Bhubaneswar. 1st Party—Management

AND

Their Workmen,
Represented through Secretary,
All Bank Employees Co-ordination Committee,
C/o. Allahabad Bank,
Cuttack Road,
Bhubaneswar. 2nd Party—Union

APPEARANCES :

Sr. Manager, Federal Bank Ltd., Bhubaneswar :
For the 1st Party—Management.
None :
For the Union.

AWARD

The Government of India in the Ministry of Labour, in exercise of powers conferred by Clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Dispute Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-12012/26/97-IR (B.I), dated 11-02-1998 :

“Whether the action of the management of Federal Bank Ltd. in refusing leave to Shri K. T. Jose on sickness ground even after production of a Medical Certificate from A registered Medical Practitioner is legal or justified? If not, what relief the workman is entitled to ?

2. In spite receipt of notice the Union has no made appearance before this Tribunal. No claim statements also have been filed by the Union. The above position would suggest that no dispute exists between the parties and the Union has no cause of action.

3. Hence, no dispute award is passed.

4. The reference is answered accordingly.

S. K. DHAL, Presiding Officer

नई दिल्ली, 17 अगस्त, 2001

का.आ. 2272.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडोर के प्रबंधन के संयुक्त नियोजकों और उनके कर्मचारियों के बीच, अनुसूचन में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2001 को प्राप्त हुआ था।

[सं. L-12012/28/89-आईआर (बी-3)/(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 17th August, 2001

S.O. 2272.—In pursuance of Section 17 of the Industrial dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Indore and their workman, which was received by the Central Government on 16-8-2001.

[No. L-12012/28/89-IR (B-3)/B-I]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

CASE NO. CGIT/LC/R/21/90

PRESIDING OFFICER : SHRI K. M. RAI

Ku. Fozia Khan,

P. S. Kothwali Road,

Near Bakshiji Ki Mazjid,

H. No. 82,

Bhopal.

Applicant

Versus

The Regional Manager,

Region II, State Bank of Indore,

Regional Office,

House No. 4, Maharana Pratap Nagar,

Bhopal.

Non-Applicant

AWARD

Passed on this 18th day of July, 2001

1. The Government of India, Ministry of Labour vide order No. L-12012/28/89-1R (B-3) dated 22-1-90 has referred the following dispute for adjudication by this tribunal :

“Whether the action of the management of State Bank of Indore, Bhopal in dismissing Miss Fozia Khan w.e.f. 7-10-87 without proper enquiry is justified or not? If not, to what relief the workman is entitled for?”

2. The case for the workman is that she was appointed as clerk by the State Bank of Indore on 11-10-84 and since then she continuously performed her duty till the date of her termination from service. Since the date of her appointment, she was being harassed by the management by frequent transfers, ill treatment and mental pressures. She was forced to sit late in the evening to clear her arrears in the Bank. She refused to sit late in the bank after the working hours were over. The atmosphere in the Bank was not proper to sit late in the evening and therefore she had refused to sit late to discharge her duty. As a result of the mental harassment of the management, she became a patient of schizophaenia. She has been constantly under treatment from Jan., 1987 onwards. Due to this disease, she was not able to think properly as her mental faculty was adversely effected.

3. The workman further alleges that false and frivolous chargesheet dated 14-7-87 was served on her committing alleged misconduct. Due to her mental illness, she was not able to submit her explanation to chargesheet properly. The management got some papers signed by her. The domestic enquiry was not properly conducted by the Enquiry Officer. At the time of domestic enquiry her mental condition was not proper and therefore she had requested for her medical examination which was refused. During the course of D.E. she was not given ample opportunity to defend her case properly. The Enquiry Officer wrongly held the charges proved against her without assigning any adequate reasons in respect thereof. The Disciplinary Authority mechanically accepted the report of Enquiry Officer and her services were terminated w.e.f. 7-10-87. She preferred an appeal before the competent authority who rejected the same without giving reasonable consideration and assessing the material on record. The termination order is bad in law which deserves to be quashed. She is entitled to reinstatement with back wages. The punishment of dismissal from service imposed on her is disproportionate in the circumstances of the case and therefore it is not maintainable in the eye of law. Taking the entire facts into

consideration, she is entitled to reinstatement with all consequential monetary benefits.

4. The case of the management is that the workman joined the Bank services w.e.f. 11-10-84 at Bank's Marvadi Road Branch, Bhopal. The management never ill-treated her during working hours as stated by her. The allegations in this respect are totally false and concocted. The workman committed serious misconduct for which chargesheet was served on her. She submitted her reply to the charges and her reply was not found satisfactory. The domestic enquiry was therefore conducted against her. The management further alleges that the workman participated in the D.E. and she was given all the relevant documents to defend her case properly. She had effectively cross-examined the prosecution witnesses during the enquiry proceedings and she was in a proper and healthy condition at the time of enquiry. Her mental condition was normal and satisfactory. No papers were got signed by the workman by exercising pressure on her. She had never made any application for her medical examination at all. She had never informed the management that she was suffering from mental disease. The Enquiry was conducted in a just and fair manner and the enquiry officer had given the report after considering the material on record. The Disciplinary Authority rightly accepted the report of the Enquiry Officer and terminated the services of the workman in a lawful manner. The charges of misconduct were properly proved against the workman.

5. The management further alleges that in April, 87, the workman was posted in T. T. Nagar, Bhopal Branch Office of the Bank. She was looking after the work of inward clerk. Three cheques of outstation customers were received in the bank for collection and were handed over to her for making entry in inward register. She secretly removed the cheques amounting to Rs. 12,066.20 and deposited them in her account with the Central Bank of India. The amount of the cheques was collected and credited in her account by the Central Bank. While the search for the missing cheques was going on, the manager of the Central Bank informed that the workman had deposited the said cheques and the amount was credited in her account. The workman could not withdraw the amount from the Central Bank. For this serious misconduct, she was chargesheeted and after the D.E., the charges were found to be proved against her. Her misconduct was of a serious nature and therefore the Bank had lost confidence in her. Such worker cannot be retained in the service of the Bank. In view of all these facts the termination order passed by the management, against the workman is just and proper and it needs no interference. The workman is not entitled to any relief as claimed by her.

6. The following issues arise for decision in the case and my findings thereon are noted hereinafter :

1. Whether the D.E. conducted against the workman is just and proper ?

2. Whether the imposition of penalty of dismissal from service on the workman is proportionate to the circumstances of the case ?

3. Whether the workman is entitled to reinstatement with monetary benefits ?

4. Relief and costs ?

7. Issue No. 1

It has been held by this tribunal on 22-7-98 that the domestic enquiry conducted against the workman is just and proper. In view of this finding this issue needs no consideration at all.

8. Issue No. 2

The workman was chargesheeted for her serious misconduct regarding depositing 3 cheques of outstanding customers received in the Bank for collection in the Central Bank of India in her own account. The Central Bank of India credited the amount of these cheques in the account of the workman. Subsequently this fact was brought to the notice of the State Bank of Indore by the Manager of Central Bank of India. On receiving this information, the chargesheet was served on the workman and the domestic enquiry was conducted against her. The enquiry has been held to be proper. The workman has clearly admitted in her statement that she had deposited the said 3 cheques in her account in Central Bank of India. She had further stated that these cheques were bounced cheques. Her admission clearly goes to show that she had deposited the said three cheques of outstanding customers in her own account with an intent to benefit herself. In no way she was entitled to get these cheques deposited in her own account with her full knowledge. Her act was prejudicial to the interest of State Bank of Indore in which she was employed as a clerk and where she was discharging the duty of inward clerk. Her conduct is full of malafides. She was holding the responsible post and the Bank had full confidence in her for the discharge of her duty sincerely and honestly. This confidence was completely shattered when she tried to gain herself by depositing the cheques in her own account for which she had no legal authority. This charge has been fully proved against her during the course of enquiry.

9. The enquiry papers amply reveal the fact that the workman was given all the relevant documents to defend her case properly before the Enquiry Officer. She had very well participated in the enquiry proceedings and had effectively cross-examined the prosecution witnesses also. The enquiry officer considered

the material available on record and thereafter held the charges proved against the workman. His finding does not appear to be perverse. This court cannot sit as a court of appeal over the order passed by the Disciplinary Authority. At the same time, this court also cannot reappreciate the evidence adduced before the Enquiry Officer. The enquiry officer had rightly held the charges proved against the workman and the Disciplinary authority imposed the penalty of dismissal after accepting this report as proper. In the circumstances of the case the imposition of penalty of dismissal from service is not disproportionate. The workman has committed a serious misconduct and therefore her termination from service is a proper punishment which does not require any interference. This issue is answered accordingly.

10. Issue No. 3

In the light of my finding given on issue No. 2, the workman is not entitled to reinstatement with other monetary benefits in this case. This issue is answered accordingly.

11. Issue No. 4

On the reasons stated above, it is held that the workman is not entitled to any relief as claimed by her. Her dismissal from service is just and proper. The reference is accordingly answered in favour of the management and against the workman.

Copy of the award be sent to the Ministry of Labour, Government of India as per rules.

K. M. RAI, Presiding Officer

नई दिल्ली, 17 अगस्त, 2001

का.प्र. 2273.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कोलार ग्रामीण बैंक के प्रबंधन के संबंध निधोजको और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अथवा न्यायालय बंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2001 को प्राप्त हुआ था।

[सं. एल-12012/58/95-आई प्रार (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 17th August, 2001

S.O. 2273.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Kolar Gramin Bank and their workman, which was received by the Central Government on 16-8-2001.

[No. L-12012/58/95-IR (B I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT
Bangalore

DATED : 7th August 2001

PRESENT : HON'BLE V.N. KULKARNI
PRESIDING OFFICER

C.R.No.80/97

I Party

The General Secretary,
Kolar Gramin Bank
SC/ST Staff
Welfare Association,
Gowri Pet, KOLAR
563 101.

II Party

The Chairman,
Kolar Gramin Bank,
P.B. No.5, Head Office,
M.G.Road, KOLAR
563 101.

APPEARANCES

I Party : None

II Party : Pradeep S. Sawkar
Advocate

AWARD

1. The Central Government by exercising the powers conferred by Clause (d) of Sub-section (1) and Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-12012/58/95-IR(B 1) dated 13-10-1995 for adjudication on the following schedule.

SCHEDULE

"Whether the action of the management of Kolar Gramin Bank is justified in terminating the services of Shri M.Govinda Raju, part-time messenger-cum-sweeper for an alleged misappropriation of Rs.135/- and absence from work for a period of 386 days within 4 years and 2 months? If not, what relief he is entitled to and from which date?"

2. I party workman was working with the management. Workman is represented by the General Secretary, Kolar Gramin SC/ST Staff Welfare Association. Workman committed some misconduct. Charge Sheet was issued and enquiry was held and on the basis of the Enquiry Report, the workman who was working as Part time messenger-cum-sweeper was terminated and therefore this Industrial Dispute is raised.

3. Parties appeared and file Claim and Counter Statements respectively.

4. The case of the I party in brief can be narrated as under.

5. I party was working at Nandihalli Branch as a Messenger right from 1988, he was honest and sincere in his work. His father was working in the Mines at KGF.

6. It is the further case of the I party that his Father was Mental patient and to look after him he used to remain absent, but this was taken as misconduct.

It is not correct that the I party has misappropriated a sum of Rs. 135.00 as alleged by the Management. I party has not admitted the charges. So far as enquiry is concerned, it is said that enquiry is not correct. It is not based on the evidence. No opportunity was given to the I party. This is a fit case to invoke the provisions of Section 11(a). I party has also narrated the Charges No. 1 and 2 in the Claim Statement. The action of the management is not correct. The I party for these reasons and some other reasons has prayed to pass award in his favour.

7. The case of the II party in brief is as follows.

8. It is true that the I party was working at Nandihalli Branch as Part Time Messenger-cum-Sweeper from 21-3-1985. It is the further case of the management that he was absenting from duty and remained absent for 217 days which was unauthorised absence. Details are given in the Counter. Charge No. 1 and 2 are narrated in detail. The management has also given the dates of unauthorised absence in the counter.

9. Regarding enquiry, it is contended that the same is proper and the Enquiry Officer after considering all the material has given finding. Full opportunity was given to the I party workman and all the allegations made by the I party are not correct. The action of the management is right. The management for these reasons has prayed to reject the reference.

10. It is seen from the records that the I party remained absent continuously. At one stage the counsel who was appearing for the I party also retired.

11. The management in order to prove that the Domestic Enquiry is fair and proper has examined MW 1 and various documents are marked in his evidence.

12. His evidence is that he issued notice of enquiry to I party and the I party appeared. He explained charge sheet and the I party workman admitted the charges. 11 documents were marked. The I party admitted the charges, I party has not examined witness.

13. This witness is not cross examined by the workman for the reasons best known to him. This court by its order dated 26th June 2001 considering the evidence of MW 1 and the enquiry proceedings held that the Domestic Enquiry is fair and proper.

14. Now that the enquiry is held as fair and proper and in a situation like this, this Tribunal has no discretion to invoke the provisions of the Section 11(a) of the I.D. Act because the I party has not pointed out that the enquiry report is perverse and the finding given by the Enquiry Officer is not based on the evidence and the documents relied by the management. I have already said for the reasons best known to the I party workmen he has remained absent and has not conducted the proceedings properly. It appears he is not interested in this dispute.

15. I have heard learned counsel for the management. It was submitted by the learned counsel for the management that in the instant case, charges are proved, charge against workmen is of misappropriation and absence for long time and there are no grounds to take any lenient view and I party is not entitled for any relief. In support of this submission he relied on the following decisions.

- a. 1995 (1) LLJ Kar (DB) —1995(1) LLJ 233(SB)
D. Padmanabudu vs. Bank of India & Another

Once the enquiry is properly held and the Management has thought fit to pass an order of dismissal considering the nature and gravity of the act committed by the employee, it is not for the Court including the Labour Court to interfere with such order of management. These being a case of misappropriation by a person who was holding the position of Account clerk in a Bank it cannot be said that the bank had taken a wrong view of the matter and the punishment was unduly harsh.

- b. AIR 1998 SC 2311—1998 Lab IC 2514
Union Bank of India vs. Vishwa Mohan

The Hon'ble Supreme Court has categorically held that the Court cannot go into the question of imposition of punishment. It is for the Disciplinary Authority to consider what be the nature of the punishment to be imposed upon the misconduct prove against him.

The Hon'ble Supreme Court has held in this case as under :

"It needs to be emphasized that in the Banking business absolute devotion, diligence, integrity and honesty needs to be preserved by every Bank employee. If this is not observed, the confidence of the public would be impaired".

- c. 1996 Lab I.C. 1056 (SC)
Municipal Committee Bahadurgad vs. Kishen Behan

The Hon'ble Supreme Court had held that there cannot be any other punishment other than dismissal in case of misappropriation and corruption.

- d. JT 1998 (9) SC 37

State of Karnataka & other vs. H. Nagaraja

Dismissal—Punishment imposed after departmental enquiry — Principal of proportionality can be invoked regarding punishment only in a case where the punishment was totally irrational in the sense that it was in outrageous defiance of logic or moral standards. Such is not in the present case. Hence the order of the Tribunal which is impugned before us is set aside and the order of the Appellate Authority is restored.

- e. JT 1989 (2) SC 132

Union Bank of India vs. Parmananda

Dismissal from service—Inquiry Officer finding the Respondent guilty of fraudulent act for self aggrandisement—Penalty of dismissal imposed by the Disciplinary Authority—Scope of jurisdiction, power and authority of Tribunal—Held that Tribunal have no discretion or power to interfere with the penalty which is lawfully imposed.

- f. 1987 Lab I.C. 77

Wimco Shramik Union vs. Seventh industrial Tribunal

Sec. 11-A of the I.D. Act—Powers of Labour Court of tribunals to interfere with dismissal—Workmen found guilty of theft—Punishment of dismissal justified—No interference u/s 11-A on ground that workmen had rendered long period of unblemished service and stolen property was only Rs. 150.

- g. AIR 1997 SC 2661

Punjab Dairy Development Corporation Ltd. vs. Kala Singh

Sec. 11-A—Powers of Labour Court—Reinstatement—Labour Court coming to the concluding that misconduct had been proved against workmen and that dismissal was justifiable—Management also losing confidence that workman would faithfully carry on his duties to view of proof of misconduct Refusal by Labour Court to exercise power u/s 11-A to grant relief of reinstatement with minor penalty—is improper.

- h. AIR 2000 SC 3028

State Bank of India vs. Tarun Kumar Banerjee

Sec. 11-A I.D. Act—Industrial Tribunal Interference—With finding of misconduct recorded in domestic enquiry—Bank cashier found guilty in domestic enquiry of receiving excess money from customer and retaining same with intent to misappropriate—Finding proved to be by evidence of branch manager and head cashier who actually saw the incident—Domestic Enquiry found to be just and fair by Tribunal—Setting aside of finding of misconduct

on grounds of non-examination of money and non-production of confessional statement—Not proper.

I.2000(ii) LLJ 1395 (SC)

Janatha Bazar South Kanara Central Co-operative Wholesale Stores Ltd. & Others

Sec 11-A I.D. Act—Labour Court finding charges of misappropriation and breach of trust against Work men proved—Once misappropriation stood proved, showing sympathy held uncalled for.

j. 2001 (I) LLJ 1330 (SC)

Tripura Gramin Bank & Others vs. Tarit Roy & Another

Sec. 11A I.D. Act—Punishment of dismissal of cashier of bank from service—Principles of Sec.11-A not to be grafted into disciplinary proceeding of Government servant or other employees governed by rules and not by I.D. Act.

k. 2000(II) LLJ 1367 Kar

Managing Director B.G.M.L., K.G.F. vs. Sundareshan and others

Sec 11-A—Employees dismissed from service charge of theft and fraud—Held theft being heinous act and lenient view would cause damage to discipline in industry—Dismissal confirmed.

I. 1999(II) LLJ 155

Baby Vijayan vs. Industrial & Another
Dismissal from service—For grave misconduct by employee in Nationalised Bank—Past record in such cases has no relevance—Lokewise question whether Bank sustained loss also not relevant.

16. I have considered the arguments advanced by the management and all the decisions relied by the management. I am of the opinion that the I party has not made out any case to say that the Enquiry Report is perverse. On the other hand misconduct is proved and the action of the management is correct.

17. Considering all this, I am of the opinion that there is no merit in this reference and accordingly I proceed to pass the following order.

ORDER

Reference is rejected.

(Dictated to the L.D.C. transcribed by him, corrected and signed by me on 7th August 2001)

V. N. KULKARNI, Presiding Officer

नई दिल्ली, 17 अगस्त, 2001

का.प्र. 2274.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार तुंगभद्रा ग्रामिण बैंक के प्रबंधन के संबंध में निवेदन और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक

विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अथवा न्यायालय बंगलूर के पंचाद को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2001 की प्राप्त हुआ था।

[सं. एच-12012/87/98-आईआर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 17th August, 2001

S. O. 2274.—In pursuance of Section 17 of the Industrial Dispute Act, 1947. (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Tung abhadra Grameena Bank and their workman, which was received by the Central Government on 16-8-2001.

[No. L-12012/87/98-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR
COURT BANGALORE

Dated : 6th August, 2001

PRESENT

HON'BLE SHRI V. N. KULKARNI, B. COM,
LLB,

PRESIDING OFFICER

CGIT-CUM-LABOUR COURT
BANGALORE

C. R. No. 93/98

I PARTY

II PARTY

--
Shri K. Subba Rao,
C/o Sr. G. N. Gowranra
5th Ward,
Ranipeth,
Hospot-583201
(Advocate-Shri Manikappa
Patil)

The Chairman,
Tungabhadra Grameena
Bank,
Head Office,
Sangankal Road,
Bellary-583101
(Advocate-Shri B. C.
Prabhakar)

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12012/87/98/IR (B-I) dated 30th October, 1998 for adjudication on the following schedule

SCHEDULE

“Whether the Management of Tungabhadra Gramina Bank was justified in dismissing the services of Sri K. Subbarao, Clerk, Halavagal Branch of Tungabhadra Gramina Bank with effect from 4-1-97. If not, to what relief the workman is entitled.”

2. The first party was working with the Second Party. He committed misconduct and charge sheet was issued. Enquiry was held and on the basis of the enquiry report he was dismissed from service, and therefore, the industrial dispute is made.

3. Parties appeared and filed Claim Statement and Counter respectively.

4. The case of the first party that he joined the services of the Second party during the year 1992 as a Clerical Trainee and after completion of one year probationary period the services of the first party was regularised. He worked upto 25-6-1994. There were no allegations against him.

5. It is the further case of the first party that when he was on leave on 14-6-94, a preliminary enquiry was conducted without issuing of notice to him and he was compelled by the higher authorities to plead guilty that he had manipulated the records and that thereby had misappropriated the funds of the bank to the extent of Rs. 93,300/-. But the first party has not committed any misappropriation. The enquiry conducted by the Vigilance Officer is not correct. So far as enquiry is concerned it is the case of the first party that the enquiry is not fair and proper.

6. It is the further case of the first party that on 16-11-94 and 17-11-94 though the first party was actually present for enquiry but it has been falsely stated that the first party has remained absent, and the Enquiry Officer other than collecting the documents has not proceeded further to examine the witnesses. The enquiry officer has not given full opportunity to the first party and the report of the enquiry officer is not correct. In fact the management has collected Rs. 3,00,672.51/- from the first party and the action of the manage-

ment is illegal and arbitrary. First party for these reasons has prayed to pass an award in his favour.

7. The case of the Second party is as follows

8. Infact after detailed enquiry by the Vigilance Officer the first party voluntarily confessed the misappropriation committed by him and also gave it in writing. The charges are proved against the first party. The charges were very serious. The first party availed 15 Gold loans amounting to Rs. 93,300 - in the names of various parties. He also reduced the balance under KDR head in the General Ledger and Day Book. he made credit entries aggregating to Rs. 26,240/- in 11 Gold loan accounts with his initials in the ledger folios without preparing any slips. He committed fraud of Rs. 20,000 All details charges are given in the Counter. The first party also made fraudulent adjustments as stated in the Counter, a, b, & c on page 6 under Charge-5. Details of charge No. 6 are also given in the counter.

9. It is the further case of the Second party that the enquiry was properly conducted and all the allegations made by the first party are not correct. Full opportunity was given to the first party to defend himself. The action of the management is correct. The first party has grossly misused his official position. The enquiry is properly conducted by giving full opportunity. The first party has admitted misappropriation. The action of the management is correct. The second party for these reasons and many other reasons stated in the counter has prayed to reject the reference.

10. It is seen from the records that the management examined MW1 and various documents were marked.

11. It is seen from the records that since a long time the first party and counsel are not present. The first party has not cross examined the management witness and remained absent. This court by its order dated 21st June 2001 held that the Domestic Enquiry is fair and proper. Thereafter the matter was posted for arguments. But the reasons best known to the first party, he remained absent and his advocate also remained absent. So I have heard the learned counsel for the management. I have heard all the enquiry proceedings and the documents in detail.

12. Now that the DE is held as fair and proper we will have to see whether the enquiry report is correct and is based on the evidence and documents. The first party has not submitted anything as to how the report is perverse. The charges are very grave against the first party and according to the evidence and documents before the enquiry officer, charges are proved. There is no reason

to discard the enquiry report because nothing is made out by the first party so as to say that the report of the Enquiry Officer is perverse and is not based on the evidence.

13. In view of these facts, I am of the opinion that the action of the management is correct and it is not disproportionate at all.

14. In the given circumstances it is admitted fact that this Tribunal has little discretion after holding that the Domestic Enquiry is fair and proper. There is a grave charge of misappropriation and the charges are very serious in nature. The first party has not worked honestly in the Nationalised Bank and he has committed misconduct and the charges are proved against him.

15. Considering all this I am of the opinion that there no merit in this reference and accordingly I proceed to pass the following order :

ORDER

The reference is rejected.

(Dictated to PA transcribed by her corrected and signed by me on 6th August 2001)

V. N. KULKARNI, Presiding Officer

नई दिल्ली, 17 अगस्त, 2001

का.प्र. 2275—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध से निर्विष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम मंत्रालय कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2001 को प्राप्त हुआ था।

[सं एल-12012/121/99-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 17th August, 2001

S. O. 2275.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 16-8-2001.

[No. L-12012/121/99-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE SHRI RP PANDEY PRESIDING
OFFICER CENTRAL GOVERNMENT INDUS-
TRIAL TRIBUNAL CUM LABOUR COURT
SARVODAYA NAGAR, KANPUR

INDUSTRIAL DISPUTE NO. 255 OF 99

IN THE MATTER OF DISPUTE BETWEEN
SECRETARY

AKHIL BHARTIYA SAMASTA BANK
CHATURTH SHRENI KARMCHARI MAHA-
SANGH SITANAGAR FIROZABAD ROAD
AGRA

AND

ASSISTANT GENERAL MANAGER
STATE BANK OF INDIA
CHIPRI TOLA BRANCH
AGRA.

AWARD

1. Central Government, Ministry of Labour, vide its notification no. L-12012/121/99/IR(B-I) dated 7-9-99, has referred the following dispute for adjudication to this tribunal—

Whether the action of the State Bank of India Agra relating to denial of family pension to Smt. Anar Devi widow of late Sri Dambar Singh is legal and justified? If not to what relief is the workman's widow entitled to in this regard.

2. In the statement of claim it has been alleged that Dambar Singh was a guard in Chipri Tola Branch of the Bank. He died while working as guard in the year 1991. His widow Smt. Anar Devi moved an application in the bank for family pension but her request was turned down by the bank. It has been alleged that as Dambar Singh died while in service of the bank as guard, his son was also entitled to get appointment in the bank on compassionate ground. It has been alleged that the bank refused family pension to Smt. Anar Devi. It is wrong to say that the age of Dambar Singh on the date of recruitment was 38 years. It has been alleged that according to the rules Dambar Singh was entitled to get pension and after his death his widow is entitled to get family pension. It has been alleged that on a dispute raised on behalf of Smt Anar Devi, Government of India, has referred the matter to this tribunal and a direction may be issued to the bank to grant family pension to Smt Anar Devi the widow of Dambar Singh.

3. The management filed written statement with the contention that relief for compassionate appointment is beyond the scope of reference, hence it is not maintainable. It has been alleged that deceased Dambar Singh was not a member of pension fund scheme hence his widow was also not entitled to get

family pension. It has been alleged that deceased Dambar Singh was a member of Employees Provident Fund but he was not entitled to get pension facility. As the Provident Fund Scheme and Pension Fund Scheme were two distinct and defferent schemes and members of P.F. Scheme cannot not become member of Pension Scheme. It has been alleged that at the time of his appointment Dambar Singh was over 38 years of age, hence he was not covered within the provisions of Employees Pension Fund and Gratuity Rules. It has been alleged that his recorded date of birth in the bank is 1-7-37 and his date of joining is 4-6-76 and the date of confirmation is 4-12-76, thus on the date of confirmation in the service he was 39 years, 9 months and 3 days of age, hence he was not covered under the provision of Rule 8 sub section C of the said rules. It has been alleged that Smt. Anar Devi was informed that her husband was not member of Pension Fund Scheme, hence she was not entitled to get family pension. It has been alleged that the claim raised in this case is misconceived and is liable to be rejected.

4. On behalf of the claimant rejoinder statement has been filed in which the facts alleged in the statement of claim have been reiterated. It has been further alleged that the management has given wrong date of birth and wrong date of appointment and wrong date of confirmation of Dambar Singh. It has been alleged that Dambar Singh was in Military Service before joining the service of the bank, hence his service rendered in defence should be excluded while calculating his age on the date of his recruitment and confirmation.

5. On behalf of the claimant Smt. Anar Devi has been examined as W.W.1 and 6 documents have been filed marked Ext.W.1 to W.6. The bank has examined Raj Kumar Assistant Manager State Bank of India, Main Branch Agra, as AM...W.1 and filed 3 documents marked M-1 to M-3.

6. I have heard the authorised representatives for the parties and have gone through the record of the case. The authorized representative for the management of the bank has argued that as the date of birth of Sri Dambar Singh was 1-7-37, and he was appointed on the post of guard on 4-6-76 and was confirmed on 4-12-76 he could not become member of the Pension Fund Scheme, because he had crossed the age of 38 years on the date of his confirmation. He has argued that according to the pension Fund Scheme only that employee of the bank could be member of the Pension Fund Scheme who is not below the age of 21 years and not above the age of 38 years. He has drawn my attention towards Pension Fund Rules, which are known as State Bank of India Employees Pension Fund Rules. According to Rule 8 of the said rules only that employee could be member of the pension fund scheme who is not below the age of 21 years and is not over 38 years

of age. The contention of the authorized representative for the bank is based on the pleadings of the management and is also supported by the evidence on the record. It has come in the evidence of Raj Kumar M.W.1 that the date of birth of Dambar Singh according to the record of the bank is 1-7-37 and he was appointed on the post of guard in the bank on 4-6-76 and was confirmed after six months from the date of appointment. The management has filed a photocopy of the service sheet of Dambar Singh which is Ext.M.1 on the record. This shows that the date of birth of Dambar Singh was 1-7-37 and he was appointed on the post of guard on 4-6-76 and was confirmed on 4-12-76. The management has also filed photocopy of PF Form duly filled by Dambar Singh which is Ext.M.3 on the record. It bears the signatures of Dambar Singh. This document also shows that date of birth of Dambar Singh is 1-7-37 and he was appointed on the post of guard on 4-6-76 and was confirmed on that post on 4-12-76. Thus it is established beyond doubt by the evidence on the record that the date of birth of Dambar Singh was 1-7-37 and that he was confirmed on the post of guard on 4-12-76 and on the date of confirmation he had crossed the age of 38 years. Thus in view of aforesaid rules he was not entitled to be a member of Pension Fund Scheme. I, therefore, find force in the case of the management that Dambar Singh being more than 38 years old on the date of confirmation on the post of guard was not entitled to become a member of Pension Fund Scheme and was also not entitled to get pension even after retirement. As he was not entitled to get pension his widow was also not entitled to get family pension under rules applicable to the employees of the bank.

7. Although it has been pleaded on behalf of the claimant that 1-7-37 was not the correct date of birth of Dambar Singh and 4-6-76 was not the correct date of his appointment and 4-12-76 was not the correct date of his confirmation but the claimant has not produced any evidence in support of its case as pleaded above. On the other hand the case of the claimant stands falsified by overwhelming oral and documentary evidence adduced by the management on this point. I, therefore, do not find any force in the contention of the claimant that Dambar Singh was not above 38 years of age on the date of his confirmation on the post of guard and he became member of the Pension Fund Scheme.

8. The authorized representative for the claimant has drawn my attention towards the circular dated 12-2-87 issued by the bank which is Ext.W.1 on the record and has argued that relaxation in the upper age limit in the case of ex-military personnel should be granted in the case of Pension Fund Scheme, also. I have gone through the aforesaid circular,

which relates to the relaxation in the age limit for recruitment of sub staff. According to this circular Ex-servicemen are entitled to get relaxation in the upper age limit for three years plus service in the armed force. This is the reason that Dambar Singh could get appointment on the post of guard even he had crossed the age of 38 years. This circular regulates the recruitment and has no relevance so far as the Pension Fund Scheme is concerned which is governed by separate Pension Fund Rules according to which an employee who has crossed the age of 38 years is not entitled to become members of the Pension Fund Scheme. Thus this circular is of no help to the claimant.

9. The authorized representative for the claimant has further drawn my attention towards circular dated 4-6-97 which provides that if a pension holding pensionable post retires after completing 10 years of service he shall be entitled to get pension. In my opinion, this circular is of no help in the case of claimant because Dambar Singh admittedly died on 9-7-91 and aforesaid circular cannot be made applicable on him. Secondly according to Rules an employee of the bank who had completed 20 years of service became entitled to get pension. In my opinion this circular applies only to those employees who were members of Pension Fund Scheme and only they were entitled to get benefit of this circular. Sri Dambar Singh who died in the year 1991 and who was not member of Pension Fund Scheme was not entitled to get the benefit of pension under this circular hence his widow was also not entitled to get family pension.

10. It has been pleaded on behalf of the claimant that the son of Dambar Singh was entitled to get compassionate appointment as Dambar Singh died while serving the bank as guard. It has been pleaded on behalf of the management that his point is beyond the scope of reference, hence this question cannot be decided by this Tribunal in this case. I have gone through the order of reference. In the order of reference there is no mention of giving compassionate appointment to the son of Dambar Singh. I, therefore, hold that this court cannot decide this question of giving compassionate appointment being beyond the scope of the present reference.

11. In view of findings recorded above, I hold that the action of the State Bank of India, Agra, in denying family pension to Smt. Anar Devi widow of Sri Dambar Singh is lawful and justified. Smt. Anar Devi is not entitled to get any relief in pursuance of the reference.

12. Reference is answered accordingly.

R.P. PANDEY, Presiding Officer

2550 GH/2001-14

नई दिल्ली, 17 अगस्त, 2001

का.आ. 2276 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोक्तों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पचाट का प्रकाशन करती है, जो केन्द्रीय सरकार को 16-8-2001 को प्राप्त हुआ था।

[सं. पञ्ज-12012/123/99-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 17th August, 2001

S.O. 2276.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 16-8-2001.

[No. L-12012/123/99-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE SRI RP PANDEY PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL CUM LABOUR COURT,
SARVODAYA NAGAR KANPUR

Industrial Dispute No.247/99

In the matter of dispute between

The Secretary,

Akhil Bhartiya Samast Bank Chaturth Shreni
Karamchhari Singh Central Office New TV Tower,
Firozabad Road Agra

AND

The Assistant General Manager,
State Bank of India,
Region No. I Zonal Office
Sanjai Place, Agra

AWARD

1. Central Government, Ministry of Labour
New Delhi, vide its notification No. L-12012/123/99/
IR(B-I) dated 8-9-99 has referred the following dis-
pute for adjudication to this tribunal-

Whether the claim of the Akhil Bhartiya Samasta
Bank Chaturth Shreni Karamchhari Mahasangh
that Sri Rama Kant Gupta should be given per-
manent appointment by the management of State
Bank of India is legal and justified? If not to
what relief the said workman is entitled?

2. In this case after exchange of pleadings and documents between the parties, when the case was taken up for hearing on 25-7-2001 that is the date of evidence of the workman, the authorized representative for the workman instead of adducing evidence of the workman made an endorsement on the statement of claim to the effect that he is not interested to contest the present reference and requested to pass award accordingly.

3. In view of statement of the authorized representative for the workman the tribunal is left with no other option but to hold that the concerned workman is not entitled for any relief for want of proof in pursuance of the present reference.

4. Reference is answered accordingly.

R.P. PANDEY, Presiding Officer

नई दिल्ली, 17 अगस्त, 2001

का.प्र. 2277.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण न. 2, धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2001 को प्राप्त हुआ था।

[स. एन-12012/148/89-आई आर डी-III/(बी-I)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 17th August, 2001

S.O. 2277.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 2, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 16-8-2001.

[No. L-12012/148/89-I.R. D-III/(B.I.)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD
PRESENT

Shri B. Biswas,

Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 1 OF 1990

PARTIES :

Employers in relation to the management of State Bank of India, Patna and their workman.

APPEARANCES :

On behalf of the workman :

None.

On behalf of the employers :

Shri Sihabuddin, Law Officer.

State : Jharkhand

Industry : Banking

Dated, Dhanbad, the 30th July, 2001

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-12012/148/89-I.R. D-III, dated the 28th Dec., 1989.

SCHEDULE

“Whether the action of the management of State Bank of India, Tati Jharia, P.O. Tati Jharia, Distt. Hazaribagh in terminating the services of Shri Devender Jaiswal, Canteen Boy of SBI, Tati Jharia, w.e.f. 13-7-86 is legal and justified ? If not, to what relief the workman concerned is entitled ?”

2. The case of the workman as per W.S. in brief is as follows :

The concerned workman in his W.S. submitted that he was a Canteen employee appointed by the management on 14-9-81 and since then with all diligence he discharged his duties as Canteen employee. It has been alleged that inspite of his continuous work at Tati Jharia branch for about 5 years the management terminated his service without giving any notice on 12-7-86. The management also did not pay any retrenchment compensation to him. He submitted that the cause of his termination from service was that he went on leave for one day prior to the date of termination on account of his illness. It has been further alleged that after terminating his service the management has appointed another Canteen boy to perform duties similar to that of his service and that was so done by the management illegally, arbitrarily and with some ill motive. The concerned workman further submitted that he was an employee of the Bank in view of the Decision of the Shastri/Desai Award and also in respect of the fact that recurring and non-recurring expenditure of staff canteen are financed by the Bank's Staff Welfare Fund which consists of funds sanctioned annually by the Executive Committee of the Central Board of the Bank out of the Annual profits earned by them. He submitted further that at each local head office there is a Circle Welfare Committee consisting of the Bank's Chief General Manager, one of the General Managers, Personnel Manager, three members of

officers staff and five members of Award (Class III and Class IV) staff. Circle Welfare Committee allots funds to Local Implementation Committee at the Branch/other establishment levels for different staff welfare activities including canteens. Books and accounts of the canteen are kept in a manner as laid down by the Bank and these are periodically audited by the Bank Branch Inspector/Auditor. All vouchers pertaining to the expenses of canteens put through are to be passed by the Branch Manager or Accountant or any authorised officer of the Bank. All such vouchers are to be kept for inspection/audit by the Branch Inspector/Branch Auditor of the Bank. All vouchers/receipts are retained in date-wise order in monthly bundles like suspense account vouchers for examination at the time of the next inspection/audit of the Branch. Local Implementation Committee is the creature of the Bank. It figures as an intermediary between the canteen employee and the Bank management. It has no independent activity. The Committee takes direction and advices from the Circle Welfare Committee who in turn take their instructions and advices from the management. He submitted that as per rule of the Bank a temporary subordinate cadre employee was entitled to be absorbed in permanent service after completion of nine months service but inspite of the said rules the management did not consider necessary to absorb him in permanent service on the contrary violating the principles of natural justice illegally and arbitrarily terminated his service with effect from 13-7-86 without holding any enquiry. Accordingly the concerned workman submitted his prayer to pass an Award holding his entitlements to subordinate cadre with effect from the date of his appointment and his reinstatement in the Bank's service with retrospective effect.

3. The management on the contrary after filing W.S.-cum-rejoinder has denied all the claims and allegation which the concerned workman asserted in his W.S. It has been submitted by the management that the appointment of the concerned workman was made by the Local Implementation Committee which runs and manages such canteen for staff welfare. This committee engages the Canteen Boy on their own behalf and not on behalf of the Bank or for the Bank. These canteens run by members of the staff through their representative to cater their daily tea etc. and as such it has nothing to do with the activities of the Bank and as such the dispute raised does not fall within the ambit of Section 2(k) read with Sec. 2S of the I.D. Act, 1947 so far as Bank is concerned. The management has categorically denied the fact that the concerned workman was appointed by the Bank as Staff of the Bank. It has been stated that facility of Canteen to the members of the staff are provided

by the management as per agreement entered into between the Federation and Apex Body representing the Award staff in the Bank. The management further submitted that the canteen run at the Tati Jharia does not fall within the category when the Bank is running the canteen. The management submitted that all the allegations made by the concerned workman are false and for which the concerned workman is not entitled to get any relief by raising the instant industrial dispute. The management therefore submitted to pass an Award dismissing the claim of the concerned workman.

4. The points for decision in this reference are

“Whether the action of the management of State Bank of India, Tati Jaria, P. O. Tati Jharia, Distt. Hazaribagh in terminating the services of Shri Devedder Jaiswal, Canteen Boy of SBI Tati Jharia w.e.f. 13-7-86 is legal and justified ? If not, to what relief the workman concerned is entitled ?”

FINDINGS WITH REASONS

5. It is seen that the management in order to substantiate the claim examined three witnesses. The concerned workman inspite of getting scope to adduce evidence did not examine a single witness. MW-1 Shri K. M. Pandey during his evidence disclosed that Tati Jharia Branch of SBI falls within the jurisdiction of Regional IV of SBI Zonal Office, Ranchi. This witness during his evidence disclosed that the concerned workman was never an employee under the Bank and in support of his claim he relied on the Pay slip of the Staff of the said Branch which during his evidence was marked as Ext. M-1. Even the concerned workman being an employee of the Bank did not sign the Attendance Register. Photo copy of the Attendance Register was marked as Ext. M-3. I have considered the Attendance Register and pay sheet. It transpires clearly the neither salary of the concerned workman was disbursed as per the said pay sheet nor he signed the Attendance Register being a regular staff of the Bank. This witness disclosed that Bank runs a canteen where staff strength exceed 200 but where the strength of the staff is less than 200 the canteen is run by the Local Implementation Committee. This committee is the Welfare committee of the Staff of that place. The appointment of any canteen boy to such area where the strength is below 200 is not made by the State Bank of India. The termination of such canteen boy is also not done by the S.B.I. This

witness further disclosed that Shastri Award and Desai Award is not applicable to the Canteen Boy where the canteen is run by the local implementation committee. They are not entitled to get any bouys and other facilities which the staff of the Bank are entitled to get. From the evidence of this witness it transpires that at the relevant time the staff strength of Tati Jharja branch was below 5. He submitted that the cheques relating to meeting the expenditure of the canteen are signed by the President and the Secretary of the Local Implementation Committee and in support of the claim he relied on the document marked as Ext. M-2 series. Salary of the concerned workman was also paid through cheque duly signed by the Secretary or President of the Local Implementation Committee. This witness also relied on Ext. M-5 and M-6 duly signed by the President and Secretary, Circle Welfare Committee relating to allocation of recurring expenses and Staff Welfare Fund. The photo copy of the letter signed by the Secretary, Local Implementation Committee dt. 8-11-85 during evidence of this witness was marked as Ext. M-8. During cross-examination this witness disclosed that the fund to the local implementation committee was allocated by the Bank by debiting Bank charges account. The salary of the staff is paid through establishment by debiting Bank charges account. MW-2 and MW-3 in course of their evidence corroborated the fact disclosed by MW-1 relating to the procedure by which the staff canteens are run at respective branch of the SBI. The witnesses disclosed categorically that where staff strength is more than 200 canteen in that case Canteens are run by the Bank but where the staff strength is less than 200 the canteen is run by the local implementation committee. The committee is provided only with the subsidy by the Bank and not the pay of the staff. The subsidy to the committee is paid after debiting charges account Sundries. Therefore, considering the evidence of MW-1, MW-2 and MW-3 and also considering the documents produced by the management in course of hearing it transpires clearly that where the staff strength of the Bank exceeds 200 in that case the canteen of the said Bank is run by the management but where the staff strength of the Bank is less than 200 in such case local Canteen is run by the Local Implementation Committee. The Bank authority only gives subsidy in the matter of running the canteen for benefit of the staff. It is also clear that the Local Implementation Committee for running of the Canteen is entitled to appoint any staff and in no way the Bank authority is involved in that regard. Only subsidy to the committee is paid after debiting charges accounts

Sundry. It is the submission of the management that the concerned workman was not at all the employees of the Bank and for which they had no role at all in the matter of termination of their service. In course of hearing the concerned workman inspite of getting opportunity has failed to produce a single scrap of paper to show that he was actually appointed by the Bank authority as Canteen Boy. He has also failed to file a scrap of paper to show that he received his salary through salary sheet issued by the Bank, that he used the sign the Attendance register of the Bank as regular employee. It is the specific submission of the management that where the Canteen is run by the Local Implementation Committee the Bank had no role in the matter of its management. The authority allows some subsidy for smooth running of the canteen for the interest and benefit of the Bank staff through the funds to the Local Implementation Committee is allocated by the Bank by debiting Bank charges accounts. There is no scope to say that for the said reason the canteen is run by the Bank authority. The representative of the management in course of hearing relied on decisions reported in 2000 Lab. IC page 1481 and AIR 1996 Supreme Court 1241. In the decision reported in 2000 Lab. IC Their Lordships of the Apex Court observed that Shastri Award does not cast any obligations on State Bank of India to provide canteen facilities by running a Canteen. The employees of canteen run by the Local Implementation Committee can not claim to be absorbed as employees of the Bank. Their Lordships further held that employees of the canteen which are run at various branches by the Local Implementation Committees as per the Welfare Scheme framed by the SBI Could not become employees of the Bank as the Bank is not having any statutory or contractual obligation or obligation arising under the Award to run such canteens. In the decision reported in AIR 1996 Supreme Court page 1241 Their Lordship of the Apex Court held the same view. Therefore, considering the decisions referred to above there is sufficient scope to say that when a canteen employee is appointed by the Local Implementation Committee he cannot claim to be a regular staff of the Bank concerned. It is seen in the evidence MW-1, MW-2 and MW-3 that the concerned workman as employed as canteen boy by the Local Implementation Committee and not by the management. Nationally the management had no role in the matter of termination of his service. In spite of knowing fully well of the fact the concerned workman claimed himself to be a regular staff under the management but in course of hearing

the concerned workman has failed to justify his claim lamentably. After careful consideration of all the facts and circumstances I hold that the allegation which the concerned workman made against the concerned management about his illegal and arbitrary termination finds no basis at all. Accordingly the concerned workman is not entitled to get any relief. In the result, the following Award is rendered :

“The action of the management of State Bank of India, Tati Jharia, Distt. Hazaribagh in terminating the services of Shri Devender Jaiswal, Canteen Boy of SBI Tati Jharia w.e.f. 13-7-86 is legal and justified. Consequently, the concerned workman is not entitled to any relief.”

B. BISWAS, Presiding Officer

नई दिल्ली, 17 अगस्त, 2001

का.प्र. 2278.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण नं. I, हैदराबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2001 को प्राप्त हुआ था।

[सं. एल-12012/187/99-आई प्रार (बी-I)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 17th August, 2001

S.O. 2278.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal I, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 16-8-2001.

[No. L-12012/187/99-IR (B-I)]
AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL-I HYDERABAD

Present : Sri Syed Abdullah, B.Sc., B.L.,
Industrial Tribunal-I.

Dated : 2nd day of July, 2001

INDUSTRIAL DISPUTE No. 50 OF 1999

2550 GI/2001—15

BETWEEN :

Sri P. Mariyadass, Ex-Temporary Messenger,
C/o. Cornelius Reddy, Gari Church,
Ayyappa Nagar, Vijayawada, A.P. —Petitioner

AND

The Assistant General Manager,
State Bank of India,
Labbipet, Vijayawada, A.P. —Respondent

APPEARANCE :

M/s. P. Lakshmi, Advocate for the Petitioner.

Sri B. G. Ravinder Reddy, Advocate for the
Respondent.

AWARD

The Government of India, Ministry of Labour by its Letter No. L-12012/187/99/IR (B-I), dt. 9-8-1999 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of the Industrial Disputes Act, 1947 referred the dispute to this Tribunal, for adjudication in between the workmen and the management on the issue mentioned in the Schedule noted below :

“Whether the action of the management is not absorbing the services of Shri P. Mariadas, Sr. Most Temporary Sub-Staff to permanent status and thereafter terminating his services is justified. If not, to what relief he is entitled to and from what date ?”

After the appearance of the parties, they filed separate pleadings.

2. Briefly stated the facts mentioned in the claim statement are as under :—

The Petitioner workman joined as Temporary Messenger on 5th July, 1985 in Kothapet Branch, S.B.I., Vijayawada Zone and worked from 5-7-1985 to 21-9-1985. Again from 2-5-1986 to 21-5-1986, he worked at Gandhinagar Branch. Again on 17th and 18th February, 1987 he worked in Patamata Branch. In all he worked for 91 days in all the branches. The Respondent had issued a Notification on 1-8-1988 for appointment of regular full time or part-time messengers in the S.B.I. which is to the effect that temporary staff who worked as full time or part time in the Bank are eligible to apply for the said post with a condition that he had worked after 1-7-1975 to 31-7-1988 for an aggregate period of 30 days in any calendar year or one must have worked for 70 days on temporary basis within 36 calendar months. The petitioner had fulfilled the said condition and so he applied for the appointment of a regular full time/part time Messenger. An interview was conducted during 1989 in which the Petitioner

was also selected and his name was kept in empanelment list keeping him at S. No. 9. The list was forwarded after completion of selection and empanelment to Patamata Branch for appointing the petitioner as regular Messenger. The Petitioner worked for 788 days in Patamata Branch, Vijayawada Zone and in other Branch 78 days. In total 866 days. While so, the Respondent without continuing him in service, by an oral order terminated him stating that he is not possessing eligible conditions for regular appointment which is illegal, arbitrary and unjust. Hence prayed to hold an enquiry into the matter directing the Respondent to set aside the termination order, ordering reinstatement and further to direct the Respondent to regularise his service with consequential benefits.

3. The Respondent filed counter and in brief the facts are as under :

The petition averments are all not true and the same are denied and that the Petitioner is put to strict proof of the same. The Petitioner never worked for 240 days in any year. It is not correct that he was terminated from service. Depending upon the availability of the work, the petitioner was engaged as a temporary messenger. As such, the question of termination does not arise. The Respondent is not an industry and that the petitioner is not a workman within the provisions of the I.D. Act. On 17th November, 1977 the Management and the Employees Federation have entered into an agreement under Section 18(1) of the I.D. Act and signed it and by means of which the temporary employees are categorised into three categories i.e. A, B and C category. As per the agreement, temporary employees, categorised above, would be given chance for being considered for permanent appointment in the Management Banks service against the vacancies likely to arise during the years 1987 to 1991. Subsequently, another agreement dt. 16th July, 1980 was entered into for agreeing to substitute the period for being considered for permanent appointment in the Bank against the vacancies likely to arise during 1987 to 1992 in place of 1987 to 1991. As contemplated under the first settlement dt. 17-11-1987, again another settlement dt. 27th October, 1988 was entered into adding Clause 1-A after clause 1 of the first settlement under which "persons includes who were engaged on casual basis to work in leave casual vacancies of Messengers Farrashes, cash coolies, Water boys, Sweepers, etc. for any of the periods mentioned in Categories A, B, and C stated supra for being considered for permanent appointment against the vacancies likely to arise from 1988 to 1992. A fourth settlement was again entered into on 9-1-1991 agreeing to consider the cases of temporary employees/casual daily wages separately in the vacancies likely to arise upto 1994 and 1995-96

respectively by substituting the years 1992 with 1994 of the first settlement dt. 17-11-1987. On the basis of the settlement, the Management had prepared a panel of selected candidates of temporary employees. The said panel was prepared Zone-wise. The Federation approached the Regional Labour Commissioner (Central), Hyderabad for implementation of the Bipartite Settlement in respect of absorption of temporary workman. A conciliation was arrived at agreeing that both the panels of temporary employees and daily wages/casual labour will be kept alive upto March, 1977 and vacancies will be filled up from both the lists concurrently. Again a fifth settlement dt. 13th July, 1996 was entered into agreeing that both the panels will be kept alive upto March, 1997. Again on 27th February, 1997 a Memorandum of understanding was signed between the Federation and the Management Bank regarding the fact that the exercise of identifying the messenger vacancies as on 31-12-1994 has since been completed by the Central Office thereby 403 messengers' vacancies were sanctioned to this Circle. It was agreed that these vacancies may be filled from 1989 panel of temporary employees after affecting conversion of full time, non-messenger staff in the usual manner and the agreement was reached accordingly. By means of the settlement dt. 30-7-1996 both the panel of temporary employees/daily wages, casual employees would lapse on 31-3-1997. All those applicants who have put in more number of days have been absorbed. The Petitioner had put in an aggregate temporary service less than 240 days in a continuous 12 months period during 1-7-1975 to 31-7-1988, so he had no right to seek direction to consider the candidature for absorption under any other rule/law except under the said settlement and other settlements entered into thereon. The Management has not violated any of the provisions in the terms of the above settlement as alleged. The temporary service rendered during the period from 1-1-1975 to 31-7-1988 is only to be taken for permanent absorption and number of days worked subsequent to this period are not counted as per the agreement. As the panel had elapsed on 31-3-1997 engaging services temporarily does not arise. The Petitioner was not kept at S. No. 9 in the empanelment as alleged and his number was at 597 in the list. In this connection, it is to be noted that number of days of temporary services put in by an empanelment of the employees after the cut off date was not to be considered and any length of such temporary service does not give any right to permanent appointment. The Hon'ble Supreme Court in Shankarshon Dash V. Union of India (AIR 1991 SC page 1612) held that inclusion of the candidate's name in the merits, does not confer any right for selection. So also in another Syndicate Bank Vs. Shanker Paul 1997 (6) SCC page: (584) it was held

that the wait list for a specific period and if it lapses, the wait listed persons do not have any further right. So also in Sanjay V. Vs. Union of India [1997 (4) SCC page 283] it was held that the wait listed candidates have no right for appointment as there are no vacancies. Hence prayed to dismiss the claim of the Petitioner as not maintainable.

4. The point for consideration is whether the Petitioner is entitled for the relief as prayed for ?

5. To substantiate the claim, the Petitioner himself examined as W.W.1 and reiterated the factual aspects averred in the claim statement and also filed few documents which were marked as Exs. W1 to W16. On the side of the Respondent Bank, the Assistant General Manager of S.B.I., Vijayawada, was examined as M.W.1 to elaborate the stand taken in the counter, by producing Exs. M1 to M7.

6. The main contention of the workman is that since he worked for more than 240 days in an year as temporary Messenger and by means of Ex W1 notification he became eligible for selection for permanent vacancy and that his name was kept in the selection Panel at Sl. No. 9 and subsequent to the selection in all he worked for 866 days in different State Bank of India branches of Vijayawada Circle, while so he was orally terminated from service w.e.f. 31-3-97 as such the termination amounts to retrenchment which is contrary to Section 25(F) of I.D. Act.

7. Whereas the respondent's rival contention is that the Management could either act arbitrarily or go against the terms of the settlement that were entered into between the employees union and the Management from time to time covered by Exs. M3, M4 and M6. It is on the basis of settlement for absorbing temporary part time Messengers/casual separate panels were prepared zone-wise in dis-cendency order of temporary service put in by the candidates during the stipulated period i.e. 1-7-75 to 31-7-88. As per MOU dt. 22-7-97, the Central Office had identified 403 messenger's vacancies as on 31-12-94 and sanctioned the same to Vijayawada for filling it from 1989 panel, and it was agreed in the settlement dated 30-7-96 that the panels of temporary employees and daily wage casual employee would lapse on 31-3-97. Thus all the 403 vacancies were filled up and absorbed from the eligible candidates of the panels who have more number of days and seniority than the workman herein. As the workman's temporary service in an aggregate is less than 240 days in a continuous period of 12 months during 1-7-75 to 31-7-88 he cannot seek for absorption out of the way without adhering to the settlement dated 17-11-87, 16-7-88, 27-10-88, 9-1-91 and 30-7-88.

8. As the workman has been harping that he was discontinued from service which amounts to retrenchment as per Section 2(OO) and 2 (BB) read with Section 25(F), it is necessary to consider the factual aspects and evidence on record to find out the truth or otherwise and the legal implications thereby.

9. As per the settlement (supra) the workman was considered to include his name in the panel of 'C' category as he worked only for 89 days as on 31-7-88 and he was empanelled in the list at Sl. No. 597. Some of the settlements were questioned by some of the employees by filing a Writ No. 12964/94 which was dismissed as such the same issue cannot be decided and that as the settlement have got statutory force and it binds the workman also.

10. Either during the relevant period of Ex.W1 notification i.e., 1-7-75 to 31-7-88 or subsequently the workman had not worked for the period continuously exceeding 240 days so except the eligibility for empanelment in 1989 panel he could not get any right by it.

11. The workman in his cross examination admitted that as per the Ex.W1 notification a selection was made and his name was kept in the panel showing at Sl.No. 597 but not Sl.No. 9 as asserted by him. Also admitted that Ex.W2 Seniority list showing the names of the employees temporary Messengers exclusively relates to the persons worked in patamata branch but not the Zonal Seniority list of temporary employees Vijayawada circle. In this context the evidence of MW1 is to be read together in which he clarified that of the workman during the relevant period i.e., 1-7-75 to 31-7-88 had worked only for 89 days so he falls under the category 'C' as per the settlement Ex.M1. By the date of lapse of 1989 panel i.e., on 31-3-97 the panel exhausted with a serial No. 227 so the workman could not get the selection.

12. MW1 was suggested in the cross examination that without exhausting the candidates of 1989 panel the management had absorbed the candidates of 1992 panel, for which he answered that on the basis of the settlement dated 17-11-77 and subsequent Amendment the vacancies arose upto 1994 were filled up from out of the 1989 panel and since the agreement had lapsed by 31-3-97 the panel also had lapsed. He also clarified that candidates of 1992 panel were taken from the category of general attendants as per the 'MOU' dated 27-2-97. According to him the workman since he worked on leave vacancy on daily wage basis there was no relationship of employer and employee relationship exist at all, and as per the settlement the empanelled candidates should not claim continuous of service, unless they get absorption permanently.

13. The object and scope of Industrial Dispute Act is to achieve social justice and to protect the interest of workmen from being exploited and also to see for the advance for the progress of industries, keeping harmony and the cordial relationship between the workers and the management.

14. Section 25(F) (G) and (N) of the Act are enacted to protect the rights of workman who had continuous service of not less than 240 days in the preceding 12 months in a calendar year, and such employees cannot be wrongfully terminated from service at the will and pleasure of employer. In the background of the legal principles and the evidence available on record which on its scrutiny makes clear that the workman had never worked exceeding 240 days in any calendar month during his temporary service and his name was kept at Sl.No. 557 in Category 'C' of the selection panel of 1989 on the basis of 89 days of continuous working days to his credit during the relevant period. Though his name was in the selection panel of 1989 he could not get the chance as the panel had lapsed by 31-3-97 which was on account of the subsequent bipartite settlement entered into between the parties. Both the union and management are bound by the terms of settlements covered by Ex.M3, M4 and M6 entered into between them from time to time. The workman is also bound by the settlements. When some of the aggrieved employees have questioned the settlements in a writ and the same was dismissed it has a binding affect on all the temporary employees who are the members of the association. The claim of the workman that without exhausting 1989 panel, the candidates of 1992 panel were absorbed is not tenable, as the panel related to the future vacancies arose in 1995 upto the end of 1996. The temporary service rendered by the workman after the cut off dated 31-12-97 cannot be taken into consideration for selection as per Ex.W1 notification.

15. Regarding absorption of temporary employees or for regularisation of the services, the Hon'ble Supreme Court issued guidelines from time to time and in a decision reported in State of Haryana and others vs. Piara Singh (AIR1992) Supreme Court page 9130, made it clear that the court must act under due care and caution before issuing a direction to the management for absorption of temporary employees or to regularise their services. It cannot be denied that the workman had joined on daily wage in the leave vacancy with an understanding that his work ceases as and when the permanent employee returns back to duty.

16. Similarly in another decision in Tarun Kundu Vs. State of Bengal 2001 LLJ (Calcutta) page 258, and in a decision Himanshu Kumar Vidyarthi vs. State of Bihar 1998 2 LLJ Supreme Court at page

15, it was held that mere completion of 240 days in one calendar year does not confer right to claim a benefit and non continuation or absorption cannot be termed as retrenchment.

17. It is interesting to note that Apex Court has made it clear in the following decisions regarding the panels of selection and merit lists laying down the legal position that wait listed candidate in the selection list cannot have a claim that he should be appointed when no vacancies available or that the list was cancelled for any other reason viz., (1) Shanker Shahundas vs. Union of India AIR 1991 Supreme Court page 1612. (2) Syndicate Bank vs. Sharpaul 1997. 6 Supreme Court cases page 584. (3) Sanjay vs. Union of India 1997 4 SCC page 283.

18. The principles laid down in the above decisions fully supports the contentions of the respondent making it clear the helpless position which prevented in absorbing the workman on permanent basis which is bonafide and it cannot be considered as unfair labour practice or victimisation. Therefore the claim is devoid of merits.

19. In the result an Award is passed holding that the action of the management is justified in not absorbing the Services of the workman i.e., Sri P. Maria Das, temporary staff of permanent status and thereafter terminating his services. No order as to costs.

Dictated to the Shorthand Writer, transcribed by him, corrected by me and given under my hand and seal of this Tribunal on this 2nd day of July, 2001.

SYED ABDULLAH, Industrial Tribunal-I

APPENDIX OF EVIDENCE

Witness Examined for the Petitioner:	Witness Examined for the Respondent:
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WW1 P. Maria Das	MW1 L. Jaya Prakash Rao
Documents marked for the Petitioner:	

Ex.W1	Xerox copy of the notification.
Ex.W2	List of empanelled candidate WW1 is at Sl. No. 9.
Ex.W3 4-3-86	Certificate of the Branch Manager Kothapet SBI.
Ex.W4 8-7-86	Certificate of the Branch Manager andhi Nagar Branch for 18 days from 2-5-86 to 21-5-86.
Ex.W5	Certificate of the Branch Manager Patamata Branch for 2 days 17/18-2-87.
Ex.W6 18-3-97	Letter from the Zonal Office to the Asst. General Manager.
Ex.W7	Letter of the Union regarding the appoint-

- 6-3-97 ment of temporary employees leave reserve by way of part time general attendants in Messenger cadre.
- Ex.W8 Representation made to the ACL
30-10-98 Vijayawada.
- Ex.W9 Written Statement filed by the Bank
before ACL.
- Ex.W10 Certification for 95 days 4-3-91 to 29-5-91.
8-7-91
- Ex.W11 Certificate for 179 days 13-7-92 to 31-1-93.
1-2-93
- Ex.W12 Certificate for 200 days 3-8-93 to 9-3-94.
11-3-94
- Ex.W13 Certificate for 53 days 5-10-94 to 2-12-94.
10-1-95
- Ex.W14 Certificate worked for half pay from
13-9-95 to 13-3-95.
- Ex.W15 Certificate for 18-9-95 to 22-4-96 for
10-5-96 199 days.
- Ex.W16 Certificate for 156 days 4-10-96 to 31-3-97.
31-3-97
- Ex.W17 Circular of 8/91 of the Bank appointment
should be made from panel.

Documents marked for the Respondent:

- Ex.M1 Settlement.
17-11-87
- Ex.M2 Settlement
16-7-88
- Ex.M3 Settlement dated 27-10-88.
- Ex.M4 Settlement dated 9-1-1991.
- Ex.M5 Minutes of Conciliation Proceedings
dated 9-6-95.
- Ex.M6 Settlement dated 30-7-1996.
- Ex.M7 Memorandum of understanding dated
27-2-1997.

नई दिल्ली, 17 अगस्त, 2001

का.प्र. 2279.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2001 को प्राप्त हुआ था।

[सं. एस-12012/223/92-आई आर (बी-3)/(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 17th August, 2001

S.O. 2279.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 16-8-2001.

[No. L-12012/223/92-IR (B-3)(B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, JABALPUR

CASE NO. CGIT/LC/R/42/93

PRESIDING OFFICER : SHRI K.M. RAI

Shri Ramsingh Karosia,
S/o Kalyan Singh,
R/o House No. 1916,
Lalmati, single Quarter,
Ghamapur, Jabalpur

Applicant

Versus

The Regional manager,
State Bank of India,
Regional Office No. 2,
Marhatal, Jabalpur
The Branch Manager,
State Bank of India,
Branch Waraseoni,
Distt. Balaghat (MP)

Non-applicants

AWARD

Passed on this 1st day of August, 2001

1. The Government of India, Ministry of Labour vide order No. L-12012/223/92-IR(B-3) dated 12-2-93 has referred the following dispute for adjudication by this tribunal

“Whether the action of the management of State Bank of India in terminating the services of Shri Ramsingh Karosia w.e.f. 30th April, 1991 is legal and justified? If not, to what relief the workman is entitled to and from what date?”

2. The case for the workman is that he was appointed as a security guard on the permanent vacancy by the Branch Manager of State Bank of India, Waraseoni, Distt. Balaghat vide order dated 3-5-90 in compliance with the order of Regional Manager, Jabalpur dated 12-2-90. His probation period was of 6 months. His work was found

satisfactory during the probation period and therefore the management extended the period of his service for 3 months more vide order dated 30-10-90 without any break in the service. Thereafter again his period of service was extended for a further period of 3 months vide order dated 2-2-91. He continuously worked in the Bank for more than 240 days in a calendar year preceeding the date of his termination from service w.e.f. 30-4-91. Prior to termination of his service, the management neither served him with one month statutory notice as laid down in Sec. 25-F of the I.D. Act, 1947 nor he was paid any retrenchment compensation in lieu of his dispensing his services. The termination order passed by the management is, therefore, illegal and deserves to be quashed. He is entitled to reinstatement with back wages and other monetary benefits.

3. The case for the management is that the workman was appointed as security guard on 3-5-90 at the Waraseoni branch of the Bank on probation for the period of six months. The conduct and work of the applicant was found unsatisfactory during the period of probation and therefore the probationary period was extended for a period of 3 months more from 3-11-90. Even after the extension of probation period, the workman did not improve his conduct at all. The management further extended his period of probation for 3 months from 3-2-91 to 2-5-91. It was found that the workman remained absent without permission from 1-10-90 to 8-11-90. He had also not filed any application for the grant of leave to the Competent Authority. During the entire period of probation, it was found that the work and conduct of the workman was far from satisfactory.

4. The management further alleges that the station house officer of the police station, Waraseoni informed the Bank on 10-9-90 that a criminal case was registered under Sec. 324 of IPC against the workman and the challan was filed in the court of judicial magistrate Ist Class on 31-8-90. Another criminal proceeding under Sec-151 of CRPC was initiated against the workman on 1-3-91. The workman was found to be a quarrelsome person indulging in incident of abuses and assault with local people. The Local MLA also recommended that the workman be transferred to some other branch. The workman gave a false report to the Branch Manager on 25-7-90 that he had been admitted in hospital on account of ill-health and on enquiry, this fact was found totally false. Looking to such conduct of the workman, the management did not think it proper to retain the workman in the services of the Bank at all and accordingly terminated his services on 30-4-91 during the period of probation. The termination order passed by the management

is just and proper and therefore does not require any interference by this court. H is not entitled to reinstatement with back wages

5. The following issues arise for decision in this case and my findings thereon are noted hereinafter :

1. Whether the services of the workman were illegally terminated by the management w.e.f. 30-4-91?

2. Whether the workman is entitled to reinstatement with back wages?

3. Relief and costs?

6. Issue No. 1 :

Admittedly the workman was appointed as security guard in Waraseoni branch of the Bank by the Branch Manager by order dated 3-5-90 on a period of probation for 6 months. His period of probation was extended twice by the management as his work was not found satisfactory during the period of probation to improve his work. Ultimately his work was not found satisfactory and therefore he was discharged from service w.e.f. 30-4-91. The Regional Manager of the bank had passed the discharge order on 26-4-91, the copy of which is Ex. M-3 and on the basis of this order, the Branch Manager dispensed the services of the workman w.e.f. 30-4-91. This order has been passed in accordance with the appointment order dated 30-5-90. In the discharge order, Ex M-3, no allegations regarding the misconduct of the workman has been mentioned. This order clearly shows that inspite of the extension of probationary period, the workman was found unsuitable for discharging the duty in the Bank. In this way this order does not cause any stigma on the character of the workman. The management can discharge the employee from his service during the probation period if he is found unsuitable for the employment. In view of this fact, the workman was discharged from service by the Bank which is just and proper and does not require any interference. This view is being supported by the pronouncement of the Supreme Court in AIR 2001 SC-Pg. 625 Krishna-dinay Education Trust versus L.A. Balkrishna. This issue is answered accordingly.

7. Issue No. 2 :

In view of my finding given on Issue No. 1, the workman is not entitled to any relief as claimed by him. His termination from service is held to be just and proper. The reference is accordingly answered in favour of the management and against the workman.

8. Copy of the award be sent to the Ministry of Labour, Government of India as per rules

K. M. RAI, Presiding Officer

नई दिल्ली, 20 अगस्त, 2001

का.प्र. 2280.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्-द्वारा 1 सितम्बर, 2001 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम, के अध्याय-4, अध्याय-5 और 6 [धारा-76 की उप-धारा (1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध आन्ध्र प्रदेश राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् —

“कुकाटपल्ली नगर पालिका के अन्तर्गत आने वाले सभी क्षेत्र (परन्तु उन क्षेत्रों को छोड़कर, जहाँ पर कर्मचारी राज्य बीमा योजना पहले से लागू की गई है) तथा निजामपेट राजस्व ग्राम कुतुबुल्लपुर मण्डल, रंगारेड्डी जिला आन्ध्र प्रदेश”।

[संख्या एस-38013/20/2001-एस.एस.-I]

एम सी मित्तल, उप सचिव

New Delhi, the 20th August, 2001

S.O. 2280.—In exercise of the powers conferred by Sub-section of the Section 1 of

the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st September, 2001 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI (except sub-section (i) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Andhra Pradesh namely :—

“All the areas within Municipal limits of Kukatpally except the areas wherein ESI Scheme is already in force and the Revenue village of Nizampet in Outbullapur Mandal in Rangareddy District of Andhra Pradesh.”

[No. S-38013/20/2001-SS.I]

M. C. MITTAL, Dy. Secy.

